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BEFORE THE ARIZONA CORPORATI

IN THE MATTER OF THE APPLICATION)
OF RIO RICO UTILITIES, INC. FOR A)
DETERMINATION OF THE FAIR VALUE OF)
ITS UTILITY PLANT AND PROPERTY AND)
FOR INCREASES IN ITS WATER AND)
WASTEWATER RATES AND CHARGES FOR)
UTILITY SERVICE THEREON.)

DOCKET NO.
WS-02676A-09-0257

EVIDENTIARY
HEARING

RECEIVED
MAR 25 A 11:31
CORP COMMISSION
DOCKET CONTROL

At: Tucson, Arizona

Date: March 10, 2010

Filed: MAR 25 2010

REPORTER'S TRANSCRIPT OF PROCEEDINGS

VOLUME I

(Pages 1 through 196, inclusive.)

Arizona Corporation Commission

DOCKETED

MAR 25 2010



ARIZONA REPORTING SERVICE, INC.

Court Reporting

Suite 502

2200 North Central Avenue
Phoenix, Arizona 85004-1481

Prepared for:

By: Kate E. Baumgarth, RPR

Certified Reporter

Certificate No. 50582

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1 BE IT REMEMBERED that the above-entitled and
2 numbered matter came on regularly to be heard before the
3 Arizona Corporation Commission, 400 West Congress Street,
4 Tucson, Arizona, commencing at 10:00 a.m., on the 10th day
5 of March, 2010.

6

7 BEFORE: GARY PIERCE, Commissioner

8 JANE L. RODDA, Administrative Law Judge

9

10 APPEARANCES:

11

12 For the Applicant:

13 FENNEMORE CRAIG, PC
14 By: Mr. Jay Shapiro
15 3003 North Central Avenue
Phoenix, Arizona 85012

16 For the Arizona Corporation Commission Staff:

17 Ms. Robin Mitchell and Ms. Kimberly Ruht
18 Staff Attorney, Legal Division
1200 West Washington Street
Phoenix, Arizona 85007

19

20 For the Residential Utility Consumers Office:

21 Mr. Daniel Pozefsky
1110 West Washington Street
22 Phoenix, Arizona 85007

23

24 KATE E. BAUMGARTH, RPR
Certified Reporter
Certificate No. 50582

25

1 ALJ RODDA: This is the time set for the hearing
2 in Docket No. WS-02676A-09-0257, which is the rate case
3 for Rio Rico Utilities, Incorporated.

4 Good morning, everyone. My name is Jane Rodda,
5 and I'm the administrative law judge who will preside over
6 today's hearing and also prepare the Recommended Opinion
7 and Order for the Commissioners.

8 With me here on the bench is Commissioner Pierce,
9 and I'm happy to have the company. He is down from
10 Phoenix today. So we are happy to see that.

11 First thing I will do is take appearances of the
12 parties. So I will start with Rio Rico.

13 MR. SHAPIRO: Good morning, Judge Rodda and
14 Commissioner Pierce. Jay Shapiro from the law firm of
15 Fennemore Craig on behalf of the applicant, Rio Rico
16 Utilities, Inc. With me today at counsel table on behalf
17 of the company are Mr. Greg Sorensen, the head of the
18 Arizona Division of Liberty Water; Mr. Peter Eichler, from
19 the company's parent office; and Martin Garland, who runs
20 the system down in Rio Rico.

21 ALJ RODDA: Thank you, Mr. Shapiro.

22 And on behalf of the Residential Utility Consumer
23 Office?

24 MR. POZEFSKY: Good morning, Your Honor, and
25 Commissioner Pierce. Daniel Pozefsky on behalf of RUCO.

1 ALJ RODDA: Okay. And on behalf of Commission
2 Staff?

3 MS. MITCHELL: Good morning, Judge Rodda,
4 Commissioner Pierce. Robin Mitchell and Kimberly Ruht on
5 behalf of Commission Staff.

6 ALJ RODDA: Great. Welcome to Tucson, everyone.

7 I will have the extra microphone when we are
8 finished with public comments, so you won't have to pass
9 it back and forth.

10 I will note that there is another intervenor in
11 this case, Rio Rico Properties, Inc. It is my
12 understanding that the issue that they are interested in,
13 which is the hook-up fees, we will be discussing that on
14 Friday, so they won't be making an appearance until
15 Friday.

16 Is that right?

17 MR. SHAPIRO: That's correct, Judge Rodda. They
18 have only taken a position on the company's request for a
19 hook-up fee tariff.

20 ALJ RODDA: All right. So before we get started
21 we will start with the public comment, and then we will go
22 to the evidentiary portion of the hearing starting with
23 the opening statements.

24 Before we do that, however, I want to ask the
25 parties, is there anything that we need to discuss

1 preliminary? I'm not aware of any motions that haven't
2 been ruled on. We just had a procedural conference the
3 other day.

4 MS. MITCHELL: No, Your Honor.

5 MR. SHAPIRO: Nothing that we are aware of.

6 ALJ RODDA: Okay. Great.

7 So then this is the time for public comment in
8 this matter. And thank you, Richard Martinez, for passing
9 out the speaker cards. Some of you have filled them out.
10 I will start with the names that are on the cards.

11 When I call your name, if you will come up to the
12 podium, there is a microphone. There is a little green
13 button on it -- and Mr. Shapiro had already turned it on
14 so you won't have to worry about the green button.

15 If you would state your name and spell it for the
16 court reporter. You will note that everything -- we have
17 a court reporter here today. All your comments will be
18 made part of the record.

19 If anyone has submitted any written comments --
20 and there is a significant number of written comments in
21 this matter or through e-mail -- those have all been made
22 part of the record, and I have seen those and the
23 Commissioners have seen those.

24 All right. So I will start with the first name I
25 have, and that is Tom McAlfin.

1 MR. McALFIN: Good morning, Your Honor. Good
2 morning, Commissioner. Thank you for the opportunity to
3 present my questions this morning.

4 When this notification of the rate increase came
5 out, my first question was: Who, in fact, is Rio Rico
6 Utilities?

7 Rio Rico Utilities was owned by Avatar up until
8 2004 when they were bought out by -- excuse me -- about
9 2008 until they were bought out by Algonquin Water.
10 Algonquin Water no longer exists. It is now known as
11 Liberty Water.

12 When I first looked this up on the Internet, I
13 could not find any connection between Liberty and
14 Algonquin, but recently I did. Liberty Water is a
15 completely owned subsidiary of Algonquin Power & Utilities
16 Corporation, headquartered in Oakville, Ontario, Canada.

17 Prior to October of 27 of 2009 the actual company
18 name was Algonquin Power Income Fund. This is a company
19 of investors. They invest in utility companies across
20 North America. They have a very good reputation for
21 dividend yields, and, in fact, the information I have in
22 front of me was secured off the Internet by an
23 organization called Service Right Investor's Service.

24 Now Algonquin Power & Utilities Corporation owns
25 41 hydroelectric facilities, a 99-megawatt wind energy

1 facility, and 17 water distribution and wastewater
2 treatment facilities located in the United States. This
3 is to me a mini Enron. The man -- the chief executive in
4 Arizona is a CPA. He is not an engineer. He is not a
5 water or an environmentalist. He is a public accountant
6 who has or is involved in court cases now concerning a
7 similar situation about rate increases for Black Water
8 Sewer treatment in Northern Arizona.

9 The rate increase for Black Water is being
10 repudiated the same way this one is for Rio Rico.

11 The company has suffered -- started to suffer
12 setbacks when the housing market failed nationally in our
13 country in 2008. The Rio Rico situation, the amount of
14 foreclosures and the amount of -- the jobless rate in
15 Santa Cruz County is one of the highest in the state.
16 This has affected their income, of course, and so has the
17 soft dollar. Because now the American dollar -- in 2008
18 it was worth \$1.25, \$1.28 Canadian. It is now only worth
19 \$1.05 to \$1.06 Canadian.

20 The only notification that was given to the
21 ratepayers was this that was sent out to us with our water
22 bills. We have had no information from the company as to
23 what benefits are going to be given to us, how our
24 services are going to be increased or benefited by any of
25 the rate increases that have been asked for. And I would

1 ask this of the Commission, to inquire of the company
2 what, in fact, they intend to do for us.

3 I thank you for your time, and my name by the way
4 is M-c-A-l-p-i-n, last name.

5 Thank you.

6 ALJ RODDA: All right, Mr. McAlpin.

7 The next name I have is Rudy Molera. He is with
8 the Santa Cruz County Board of Supervisors.

9 MR. MOLERA: Good morning, Judge Rodda,
10 Commissioner Pierce, members of the public. My name is
11 Rudy Molera, M-o-l-e-r-a. I live in 203 Vetra Court, Rio
12 Rico, Arizona. I am here as a resident of Rio Rico and
13 I'm also here representing our board of supervisors.

14 I am here opposing Liberty Water's rate increase.
15 My reasons for strong opposition are as follows: Santa
16 Cruz County has the highest unemployment rate in the
17 state. 16 percent, I believe is the last statistic I saw.

18 The timing is terrible considering our poor
19 economy. As we know, foreclosures are incredibly high.
20 The amount Liberty Water is proposing is not sensible.
21 The question I ask -- I also did some research myself, and
22 I thank Mr. McAlpin and our community and our newspaper
23 for all their support.

24 Is this merely a rate hike to improve stock for
25 shareholders or are we really looking at the little

1 community of Rio Rico? That is the question I pose.

2 I personally think this is a social justice
3 issue. This is the real reason why I joined politics, to
4 help and to represent the people.

5 My colleagues and I -- and I thank you, my
6 colleagues, Chairman Maynard and Manny Reese, for
7 supporting our resolution in opposition to Liberty Water.

8 I also turned in to Mr. Martinez a package with
9 signatures of petitions of a couple hundred people
10 opposing Rio Rico.

11 And then just to inform you, the timing is
12 obviously a key issue. Number two, this community right
13 now is really suffering. You look at 16 percent and there
14 is also another 16 percent that are borderline. So we are
15 talking 30 percent, if we do the numbers. These are
16 people that live paycheck to paycheck.

17 The people I represent do not want any rate
18 increase. I would also ask that the Commission do all
19 within its power to honor my request. Thank you, and have
20 a good day.

21 ALJ RODDA: Well, thank you for appearing.

22 Just curious, have you -- I'm curious. Have any
23 of you reviewed the Staff recommendations in this case or
24 RUCO's recommendation in this case?

25 MR. MOLERA: Not exactly, to be honest.

1 ALJ RODDA: I was just curious if you had any
2 comments on their -- they are proposing different rates.

3 MR. MOLERA: I went in there the last couple days
4 and I -- to be honest with you, I was rushed, and I didn't
5 get any accurate amounts or maybe I didn't interpret them
6 right.

7 ALJ RODDA: It takes a while to go through that.
8 It's a lot of information.

9 MR. MOLERA: I'm finding out, but I'm getting
10 good at it now.

11 ALJ RODDA: I'm just curious how people feel
12 about -- there is a low-income tariff proposed and hook-up
13 fees as part of --

14 MR. MOLERA: Sorry to interject. As a matter of
15 fact I had a public meeting, and Mr. Garland represented
16 Liberty Water and explained the fact that there will be a
17 tariff that people can apply for and hopefully qualify.

18 I hope it's a considerable amount because I know
19 in other situations -- you know, UniSource has a similar
20 situation, but again the amount is minimal. That is my
21 only worry.

22 And I appreciate your comments, Judge Rodda.

23 ALJ RODDA: Okay. Commissioner Pierce.

24 COM. PIERCE: Yes, thank you.

25 Supervisor Molera, the thing is with low-income

1 rates, it's not like somebody else somewhere pays for
2 them. It's everybody else is being subsidized by
3 everybody else in the community. So it is something that
4 is paid for from within.

5 But I was just going to suggest because -- and
6 maybe I can introduced you to my policy advisor in the
7 back, and I will ask John to give him a copy -- it sounds
8 like you haven't gotten a copy of what the recommendations
9 are that Staff and RUCO recommended. And I'm sure that we
10 can make you a copy while you are sitting here so you can
11 go through it so it might be handy for you.

12 If you don't have a copy -- I got from it that
13 you didn't have a copy.

14 MR. MOLERA: I didn't.

15 COM. PIERCE: Let's do that right away, if we
16 could. Thank you.

17 MR. MOLERA: Thank you.

18 ALJ RODDA: I mean, this would be good just for
19 the county representatives as well as the residents of the
20 area, another issue in the case is the hook-up fee
21 proposal. The company is proposing hook-up fees. They
22 have been opposed by some of the other parties.

23 Does the County have a view on it?

24 MR. MOLERA: We obviously oppose it as well.

25 And one other thing, Judge, if I may, in doing

1 some of my research and looking at rates throughout this
2 state, we already rank amongst the highest at Rio Rico.
3 You know, you look at some of the Pima County rates; they
4 are paying \$29 for sewer, \$17 for water. And even
5 Gilbert, Gilbert standard for sewer is \$15.95. We
6 currently pay, I believe, if I may quote Mr. Garland, on
7 an average of \$56, I believe, for sewer in Rio Rico.

8 So I don't know. I just thank you. I thank you
9 for allowing me to comment, and I hope that we come up
10 with a good decision.

11 Have a nice day.

12 ALJ RODDA: Thank you for coming.

13 The next slip I have is from Robert Dolan.

14 MR. DOLAN: Good morning. My name is
15 Robert Dolan. I have lived in Rio Rico for 13 years. I
16 retired down there. I'm a native Arizonan, which is --
17 there are few of us around. I grew up in Tucson and chose
18 to move to Rio Rico when I retired because it is a very
19 nice area.

20 It's less crowded than Tucson or Phoenix or any
21 of the other metropolitan cities around Arizona, but it is
22 very hilly and is a canyoned area. So I sympathize for
23 these people that buy water companies that have to have
24 pressure moving water up and down valleys. It's not easy.

25 So I don't know anything about this history of

1 Liberty Water, but like I say, I have lived there for a
2 long time. And I happen to live on the extreme west end
3 of Rio Rico at one of the highest points in Rio Rico. I
4 have experienced lack of water many times. And, in fact,
5 whenever they connect their water, it not only takes my
6 water pressure, but it drains my water line. So now I'm
7 paying -- I pay water -- I pay for the same water twice.

8 It goes by my meter. I don't have a back
9 pressure line, but I live a quarter of a mile from my
10 water meter. So as the water is drained off, it goes
11 through my water meter again, and when they turn it back
12 on it comes through my water meter one more time. So I
13 pay multiple times, which I understand. That is fine. I
14 accepted that when I lived in Rio Rico, and I chose to
15 live where I do. It's part of the inconveniences of
16 living in a -- what I call a very pretty area.

17 We have very little pollution. We have a little
18 bit of illegal problem, so the immigration problem is
19 there, but it's been there for the life I have lived
20 there, 74 years. We have always had immigration problems.
21 We have always had balseros programs. We have always had
22 worker programs from Mexico.

23 The people from Mexico live in a poverty country,
24 a third-world country, so they need jobs. I do not have
25 any problems with that. I do have a problem with the

1 illegals, and I have a major problem with the drug
2 situation. But that is not the problem here.

3 I feel that over the time that Liberty Water --
4 like Mr. McAlpin pointed out, these people are from Canada
5 or wherever they are from -- I don't know -- but I think
6 they bought a pig in a poke.

7 So I think they bought something they didn't
8 understand what they were doing. Now, whether they looked
9 into it, researched it or whatever, but moving water up
10 and down canyons, up and down hills is not an easy task.

11 The sewer side of this whole issue is really
12 nothing but a moot point. Sewers are not something that
13 Rio Rico has a lot of. 90 percent of our residents are on
14 septic tanks. The only sewer is down in the valley floor
15 running along one of the main streets and a few hotels and
16 apartments. So most of the people that live there live in
17 the hills, and we are all on septic tanks. So the sewer
18 issue, I don't even know about.

19 The hook-up price, I did not -- I have not read
20 this voluminous volume either. I went down to Liberty
21 Water a month ago and asked for a copy of it, and they
22 looked at me and they said, "Well, what do you mean?"

23 And I said, "You sent out a letter saying I could
24 come down here and ask for a copy of this. I'm asking for
25 a copy." They brought me out a notebook, a three-ring

1 binder that was two inches thick and wanted me to have it
2 or me to make copies of it. I said, "No thanks." I don't
3 have two weeks to read this thing nor was I willing to
4 read it.

5 So I have to say no, I haven't read anything
6 there either. All I have seen is the notification that
7 they will up my water bill by over 100 percent, which I
8 think is a little bit ridiculous.

9 So getting back to the situation that they want
10 to raise my rates, when I hooked onto the water I paid a
11 connection fee. When I asked for a water meter, I bought
12 a water meter. So I don't know what they are talking
13 about, where they are going to have a connection fee. I
14 mean, everybody I know has paid a connection fee. Lots of
15 us have paid for water meters. Certain they do pay it
16 back; they subsidize it back over six or seven years, but
17 I have lived there 13 years, so I essentially own my water
18 meter, I guess.

19 So my major concern is that I feel that the
20 residents of Rio Rico are being asked to pay for what I
21 perceive to be a bad investment by Liberty Water. So they
22 have gotten down there now and they have seen what they
23 have and so they come back and say they haven't had a rate
24 increase in four years. That is probably right, but we
25 are still paying a high price for our water.

1 We all want water. We all need water. Our
2 choices are to drill wells. I don't particularly want to
3 drill a well, so I opted -- even though I had the right to
4 drill a well, I opted to connect to Rio Rico Water to
5 offset the cost of me drilling a well, and I appreciate
6 that.

7 But I don't think it's -- I don't think it's fair
8 to ask the public, the general public, the people down
9 there to pay for ones that I would conceive is a bad
10 investment. I mean, if I went to Mike Garrett's IGA and
11 bought a T-bone steak for \$7 a pound and then I read in
12 the paper that Safeway is going to sell it for \$3.99, I
13 think if I went to Mike and told him I paid too much for
14 this steak and would he pay me three bucks backs, he would
15 look at me and say, he is crazy and I would expect that.

16 I basically think that is all I have to say. I
17 just think that it's -- I'm opposed to anybody asking me
18 to offset their bad investment.

19 ALJ RODDA: Okay. Thank you, sir, for coming
20 here today.

21 MR. DOLAN: Thank you.

22 ALJ RODDA: The next slip I have is from
23 Kathi Campana.

24 MS. CAMPANA: Good morning, Judge Rodda,
25 Commissioner Pierce. Kathi Campana for Rio Rico. I'm a

1 resident there. I'm president of Rio Rico Property Owners
2 Association, co-chair of the Baca Float Coalition, and a
3 director on the Board of Realtors. All three
4 organizations have asked that I speak in opposition to the
5 111 percent increase.

6 While we know that no business can stay in
7 business unless it can at least pay for itself, when this
8 was initially sent to us, the letter said their
9 stockholders ought to have a right to expect a reasonable
10 rate of return. To me that absolutely did not justify any
11 sort of increase because the rest of us are getting what,
12 0.05 percent on CDs.

13 So I think that while it may be fair that they
14 get a bit of an increase, the amount that has been
15 proposed is almost obscene.

16 There was a comment about being 500 vacancies and
17 therefore they weren't making the income that they had
18 expected, but with the increase in water bills, there will
19 be more vacancies because even 10- or \$20 a month could be
20 the difference between eating, keeping warm, or flushing.

21 A lot of people right now are in a position --
22 and I'm in real estate, so I know. We get these calls
23 that they can't even make their house payment. So the
24 burden that any increase, even a miniscule, would be for
25 them, is going to be tremendous. But at the same time we

1 recognize that you are in the business to at least break
2 even.

3 So I think that after -- I didn't read the entire
4 recommendation, but the recommendations of RUCO and Staff
5 both sounded far more reasonable and more easy palatable
6 to the residents down there. So I would recommend or
7 seriously request that those recommendations be considered
8 as something that maybe we could see implemented.

9 I didn't catch the part about the hook-up fees,
10 so I'm not sure how much that would be. But at this point
11 I have a number of petitions that were signed with --
12 well, there are about 70 signatures. I don't know who to
13 turn them into.

14 ALJ RODDA: You can just bring them to me, if you
15 can get past -- or maybe leave them on the podium and I
16 will pick them up.

17 MS. MITCHELL: Would you like me to get them?

18 ALJ RODDA: Can you get them to Ms. Mitchell.

19 MS. CAMPANA: Thank you. I didn't know how many
20 copies, but it's up there.

21 ALJ RODDA: I will file them as part of the
22 docket.

23 MS. CAMPANA: Thank you so much.

24 ALJ RODDA: Thank you. And the next speaker form
25 I have is Ron Campana.

1 Is this the opposing view?

2 MR. CAMPANA: I dare not oppose her.

3 Good morning, Judge Rodda and Commissioner
4 Pierce. My name is Ron Campana, C-a-m-p-a-n-a. I'm a
5 resident of Rio Rico and a ratepayer in the water
6 district.

7 I think even in good times, 111 percent revenue
8 increase for this utility proposal is -- would be out of
9 line. And I think that I read some of the RUCO and ACC
10 Staff transcripts, and I support what they are proposing.
11 They understand the rate process a lot better than just a
12 normal citizen, but whatever the Commission decides to
13 impose in this case, we hope that you will consider
14 implementing it over a number of years for the rate
15 increase. I know that RUCO and ACC Staff recommended
16 quite a bit lower than what is requested by the utility.

17 So thank you.

18 ALJ RODDA: Okay. Thank you very much.

19 And the next slip I have is Fred Johnson.

20 MR. JOHNSON: Good morning, Judge and
21 Commissioner. Thank you for allowing to us speak.

22 I have been a resident of Rio Rico since 1992,
23 and I have been paying the water bills, and I have, by and
24 large, had pretty good service.

25 I'm three miles up on Rio Rico Drive from the

1 interstate, so I'm up around 4,000 feet elevation instead
2 of 3600. So I do -- I'm very fortunate. Most of the time
3 I have pretty good pressure. So they have been doing a
4 reasonable good job. I haven't had very many complaints
5 along that line.

6 I think that when Algonquin acquired Rio Rico
7 Utilities, and I believe it was late 2005, they, I'm sure,
8 had an opportunity to examine all the financials of the
9 Rio Rico Water utility: the income, the expenses, the
10 operations, et cetera. Then when barely three years later
11 in 2009 they decide to file for a 111 percent increase, to
12 me that is a grossly exaggerated rate request.

13 They are claiming in a hearing we had the other
14 day in Nogales that they have \$8 million of improvements
15 that they have invested in improving that that were made
16 not from 2002, I believe, until 2009. Obviously a certain
17 amount of that was made by their predecessor owner in a
18 period prior to their acquisition in 2005, and I was never
19 able to find out what that difference was. So those
20 numbers should have been in what they were looking at when
21 they reviewed the financials.

22 At any rate, I think that this rate request
23 should be reduced substantially. I think that it should
24 be implemented on a gradual scale over a period of years
25 rather than one fell swoop and to make it as easy as

1 possible for the community to absorb these costs,
2 particularly in a very difficult economic time.

3 I am a professional realtor since 1997 in Santa
4 Cruz County, and this is generally the opinion of the
5 Board of Realtors for Santa Cruz County, and we really
6 think that this needs to be rethought.

7 Thank you for the opportunity to present my
8 thoughts.

9 ALJ RODDA: Commissioner Pierce has a question.

10 COM. PIERCE: Just one question. Sir, you talked
11 about two things, a reduction from what it is and phasing
12 it in.

13 I want to -- if it was reduced to a certain
14 amount, you wouldn't -- a phase-in wouldn't be the issue.
15 The issue is that if it seems to be a little unruly, that
16 it needs to be phased in.

17 MR. JOHNSON: Absolutely, yes. Whatever
18 increase, whatever level should be phased in some regard
19 to make it a little easier to absorb in these difficult
20 times.

21 COM. PIERCE: Thank you.

22 Thank you.

23 ALJ RODDA: Thank you, Mr. Johnson.

24 Next, I'm sorry if I get this last name wrong.

25 It's partly me and partly the handwriting, but it's

1 Edward Renoux.

2 MR. RENOUX: That is close. My name is
3 Edward Renoux. I will spell it for you. It's
4 R-e-n-o-u-x.

5 I'm resident of Rio Rico and a customer of
6 Liberty Water.

7 We have gone through several name changes here
8 for our water supplier without any substantial indication
9 to the customers why that name changed. Perhaps you
10 should put this rate increase on hold until they figure
11 out who they are.

12 It's confusing to the customers, and a cynic like
13 me would say that it's because they want to give the
14 customers a runaround so they don't have to answer
15 questions. We are confused on who to call.

16 Presumably the name change and aggregation of the
17 billing was for efficiency. That should lower their
18 costs, and so we need to see that take effect before they
19 come back in a rate increase, it seems to me.

20 Furthermore, when a foreign corporation,
21 Algonquin, acquired Rio Rico and reviewed the financials,
22 as other people had said, and they thought it was a good
23 deal. Not a whole bunch has changed except that their
24 revenue may have decreased slightly.

25 Their costs haven't increased substantially, I

1 wouldn't think, based on upon the aggregation of Algonquin
2 Water with the other water systems in Arizona. So I don't
3 think the Corporate Commission should be bailing out a
4 foreign company that made a bad mistake about the
5 purchase.

6 Furthermore, the past history of Corporate
7 Commission and Rio Rico Utilities is not very stellar.
8 When Rio Rico Utilities was spun off by Avatar, there was
9 a little matter at Pump Plant Well 4 that was supposed to
10 be rebuilt by Avatar. Rio Rico Utilities did not disclose
11 that to the Corporate Commission or the Corporate
12 Commission didn't consider it or the ball was dropped
13 somewhere.

14 It took them five years to upgrade Pump Plant
15 Well 4. It could have been maintenance. It could have
16 been whatever. All I got was finger-pointing between Rio
17 Rico Utilities and Rio Rico Properties about whose job it
18 was to do it and when it would be done.

19 And this was a great hardship for me. They had
20 promised it time and time again that it would be a couple
21 weeks, couple months. It took five years.

22 So based on that past history, I would like you
23 to look very carefully about this rate increase, and let's
24 have no screw-ups on it. Thank you.

25 ALJ RODDA: All right. Thank you.

1 And the last speaker slip I have, although I will
2 ask if there are any others, is John Maynard.

3 MR. MAYNARD: Good morning, Judge Rodda,
4 Commissioner Pierce. Good to see both of you again. I
5 appreciate the work that you do. I understand very well
6 the decisions in the public sectors sometimes are
7 difficult to make.

8 I came here primarily this morning to support
9 Supervisor Molera, who I believe has done a wonderful job
10 in engaging the community in this position. Because of
11 the open meeting law oftentimes we cannot be in meetings
12 together until our board has taken action or made a
13 decision on a matter. And we have as a board. I
14 appreciate not only the resolution that he introduced, but
15 I support it wholeheartedly.

16 I also am a ratepayer. I live in Rio Rico, and I
17 am very grateful that I have got the water service that I
18 have. It has improved dramatically since I started buying
19 water in our community 10 or 15 years ago. So I'm not
20 faulting what Algonquin and Liberty has done, at least in
21 our neighborhood. And I did learn something this morning,
22 and that is, thanks to Mr. Dolan, that I often pay for
23 water twice myself.

24 Occasionally water runs out, and I pick up the
25 phone and I make a phone call. Usually within an hour or

1 two it's back on, but by then my wife and I have gone to
2 work without showers in the morning and were probably not
3 very happy campers. But by the time we get home at night,
4 there is water there, and we have a good dinner and things
5 work out.

6 So all aside, I do think it is fair to say that
7 they have improved, and they have obviously made an
8 investment.

9 Now, I do -- I have not read what the
10 recommendations have come from your Staff. As I said, I
11 have let Mr. Molera take the lead on this issue, and I'm
12 very happy with the job he has done.

13 But I think it's somewhat of a business decision
14 and really what is fair. Many of us have invested in the
15 New York Stock Exchange over many, many years, in IRAs and
16 our pensions, and many of us have lost considerably in
17 that investment. Now, it was a business investment, and
18 we have been told that you need to have patience and over
19 the long term the investment we have made, they will come
20 back and we will see a return on our investment.

21 So I kind of liken this situation -- I agree. I
22 believe that due diligence may not have been done when the
23 investors came to this community and bought this company.
24 They may not have seen or realized how much they would
25 have to invest to bring it up to the level that it's

1 currently at and the level that many of us are grateful
2 that it's at.

3 I do recall that prior to the sale the previous
4 owner, which I guess Rio Rico Utilities or Avatar
5 Corporation -- I'm not sure who -- had requested an
6 increase in rates, I believe in sewer, and they were
7 granted that, and then all of a sudden a sale occurs. So
8 I'm wondering if we are looking at maybe a similar
9 situation here.

10 Are you looking for a rate increase, you get
11 that, and then you sell the business? It's not an unknown
12 business model. It's been done internationally and
13 nationally for years, and it's considered a good business
14 practice. All of a sudden your books look as though, hey,
15 this is what you can yield per gallon of water and this is
16 how many hook-ups you have got, so here is the return on
17 the investment.

18 So I go back to an issue that I think all of us
19 has faced, which is, and that is these folks are really,
20 really fortunate to have you here today making this
21 decision. Because in the past, I will share with you, I
22 believe the Commission has been very fair, at least to
23 Santa Cruz County and the issues I have come here to speak
24 with you about times before.

25 But I can't go to the board of the New York Stock

1 Exchange and say to these guys, hey, my life investment
2 over 30 or 40 years went into this thing called stocks and
3 bonds and financial returns and I lost a lot of money, and
4 can you guys bail me out? I don't have that, and I don't
5 think any of the ratepayers in Rio Rico have got that. I
6 think these guys are really lucky that they have got an
7 agency at the State that is willing to say, we will look
8 at what is fair and we will try to do our best.

9 So I ask you today, maybe what is fair is to say
10 have patience, is the way that many of us Americans are
11 being asked to have. Rather than seeing your return over
12 10 years, maybe it will have to take 20 years. I fully
13 support the idea of a phased-in rate increase. I'm not
14 going to stand here and tell you what I think is fair
15 because quite frankly I think your Staff has a better idea
16 than I do.

17 But what I do know is that, if you phase in the
18 rate increase and you extend the term that they see, a
19 return on their dollar, that maybe that is a little bit
20 fairer than giving them a rate increase and you shorten
21 that term and they see those profits, should I say, sooner
22 rather than later.

23 I totally disagree with a 100 percent rate
24 increase. I think it's ridiculous, but I also know that
25 living on the border that when I cross the line into the

1 de Seniorian, they want \$5 for something, they asked for
2 \$10. That is just how business is done in our community,
3 and oftentimes I wondered would they be, you know,
4 laughing the whole way to the bank that they got a
5 50 percent rate increase and that is why they asked for
6 100 percent.

7 I don't really know. I just want to offer that
8 idea to you this morning, and again, I want to thank you
9 for allowing me speak. I want to thank Supervisor Molera
10 for the good job he has done in supporting the community
11 on this concern.

12 ALJ RODDA: Thank you. Before you go, though,
13 the second person that you mentioned, lack of water at the
14 time, did they give you an explanation for why you don't
15 have water? Is it construction that they are doing or
16 repairs?

17 MR. MAYNARD: We have had considerable
18 construction, and sometimes ice will freeze. And
19 sometimes there is a personal property owner's problem
20 that affects our neighborhood. There have been times that
21 I believe we have had electrical shortages and maybe the
22 pumps have disengaged and they have had to go back in and
23 restart them.

24 I just know that it's a lot less than what it was
25 when I first moved to the community, and I have no

1 complaints with the service whatsoever. It's definitely
2 improved, and I have to honestly say that to both of you.

3 ALJ RODDA: Okay. All right.

4 Commissioner Pierce, did you have anything?

5 COM. PIERCE: Well, I appreciate Supervisor
6 Maynard. We've talked many times. And I took a lot of
7 notes, and I think the question that Judge Rodda asked is
8 because those have been here a lot of years have seen a
9 difference as investments were made in the company and the
10 water pressures -- last Saturday I was driving through Rio
11 Rico a lot, looking at it's different than the folks in
12 Sun City who are flat and their rates are -- there is a
13 lot of economy of scale there.

14 That is what happens with a lot of rates. When
15 you compare rates of other communities, especially if you
16 compare it to a municipality, there is a different economy
17 of scale. And the terrain is different in other places.
18 That does affect -- that affects the investment.

19 And I appreciate all the comments because I think
20 they were pretty reasoned and measured. People basically
21 aren't saying they want a free lunch; they just want
22 reason, and that is what they are asking for. Thank you
23 everyone for being here.

24 MR. CAMPANA: Thank you for the job you do. We
25 appreciate it.

1 ALJ RODDA: All right. Is there anyone else that
2 didn't get a chance to fill out a slip that wishes to make
3 public comment this morning?

4 (No response.)

5 ALJ RODDA: I don't see any hands.

6 Well, I would like to thank you all for coming.
7 You are welcome to stay for the rest of the hearing, but
8 this is my time that I get to talk to you directly. Thank
9 you for taking the time to come to Tucson and make
10 comments. Rest assured that all the petitions are part of
11 the record and all the written comments that we have
12 received are all part of the record and are read by Staff
13 and myself and the Commissioners.

14 So with that we will conclude the public comment
15 portion of the meeting, and let's take a break until
16 11:00, and then we will start with opening statements.

17 (Whereupon, a recess was taken from 10:47 a.m.
18 until 10:57 a.m.)

19 ALJ RODDA: All right. We are back on the
20 record.

21 I will ask you, Mr. Shapiro, do you have an
22 opening that you would like to make?

23 MR. SHAPIRO: I do. I do have a brief opening
24 this morning, Judge Rodda.

25 In this rate case after listening to the public

1 comment, my client, Rio Rico Utilities, is essentially
2 asking for the same thing as the ratepayers: just and
3 reasonable rates. We may not agree as to what just and
4 reasonable is with the ratepayers, but that is all we are
5 asking for.

6 In Arizona just and reasonable rates is well
7 defined by law. It's the amount that the utility needs to
8 recover its reasonable and prudent operating expenses and
9 earns an appropriate rate of return. Again, that is all
10 that the company is asking for.

11 Now, uniquely, and at least unique to me after
12 18 years, I'm asking for my first rate decrease. On the
13 sewer side, just and reasonable rates in this case require
14 a decrease. So things have changed, and that has resulted
15 in a small over-recovery in the company. Fair to its
16 customers and doing the right thing, they didn't just come
17 in for an increase on the water side. They filed both
18 sides so the rates could be set appropriately.

19 Now, let's be clear. This is not a -- we
20 understand the customer's concerns, and Rio Rico and
21 Liberty Water have sympathize with the difficulties that
22 everybody is facing, not just the customers but the
23 Commission too and the Commission Staff. And like a lot
24 of recent rate cases this has been difficult at times. We
25 have had to make a number of accommodations but the

1 company is willing to do all those things.

2 They are trying to be a good company. They are
3 trying to provide good service. I think we heard comment
4 today that demonstrates the presence that Algonquin, now
5 Liberty Water, is bringing to the State by providing the
6 quality level of services. We did not hear an abundance
7 of complaints.

8 As a side note, Mr. Sorensen is looking into the
9 concerns that were expressed on outages, and we will
10 report back on that before the proceeding is over.

11 But it's not a bailout. This is not about
12 Liberty Water or the parent company making a bad
13 investment. It's about what is required to give the
14 company recovery of its operating expenses and reasonable
15 return. And the company needs that because despite
16 difficult times their level of service quality hasn't gone
17 down. They are not able to provide lesser service because
18 customers don't want to pay.

19 The obligation of a public service corporation to
20 provide reasonable and appropriate service does not
21 change.

22 We heard comments about social justice, and with
23 all due respect to the supervisor, that is not how rates
24 are set in Arizona.

25 On that note, however, the company has proposed

1 and has been proposing in every one of its pending rate
2 cases a low-income tariff. That is the means by which the
3 company can help facilitate the type of relief that
4 certain individuals who have economic difficulties now may
5 obtain a lower rate for service.

6 That is one of the means by which the company
7 seeks to address the concerns that are out there. What it
8 doesn't want to have to do is either not recover
9 sufficient revenue or not provide a sufficient level of
10 service.

11 Now, looking at the prefilings of the prefilled
12 testimony, two issues appear to dominate the prefilled
13 testimony in this case. That is the issue of the
14 company's central cost allocation from the parent. We
15 will be dealing with that tomorrow with the witnesses.

16 And then there is a lot of dispute over the
17 hook-up fee tariff. That is frustrating for the company.
18 The company views the hook-up fee tariff as one of means
19 by which it can help to keep rates within acceptable
20 ranges over time; yet every party to this case, except for
21 the company, opposes the hook-up fee for a variety of
22 reasons. So we will address those issues.

23 There are some other key issues, although, there
24 is only one rate base issue in this case; that's the
25 age-old great issue of accumulated deferred income taxes.

1 Hopefully by the time we are all done, more than
2 Mr. Bourassa and Mr. Becker and Mr. Coley, we will
3 understand the issue.

4 He have a dispute over -- with RUCO over the
5 capital structure. They are not satisfied with the actual
6 capital structure. They prefer to make one up and use
7 that.

8 All parties offer a different return on equity.
9 I know that is nothing new for rate cases, and we will
10 adjudicate that as well.

11 We have some concerns with Staff's rate design as
12 well. Again, we propose a low-income tariff. We feel
13 that that is the way to address folks that need a break in
14 their rates, not the kind of revenue shifting that we see.

15 At the end of the day, what Rio Rico is asking
16 for is roughly a \$12 increase in rates for its water
17 service, a decrease in the rates for its sewer service.
18 And there will be an opportunity for those that have a
19 need for assistance to apply for and obtain a --
20 participate in the low-income tariff.

21 With all that said, as I said in my opening
22 comment, Judge Rodda and Commission, all Liberty wants for
23 Rio Rico Utilities is all it wants for all of its cases,
24 all of its utilities in this state, and that is both rates
25 that provide for recovery of operating expenses and a just

1 and reasonable return and adequate opportunity to collect
2 that revenue.

3 Thank you very much.

4 ALJ RODDA: Okay. Thank you, Mr. Shapiro.

5 Mr. Pozefsky, do you have an opening this
6 morning?

7 MR. POZEFSKY: I do, Your Honor. It should be
8 relatively brief.

9 According to Mr. Shapiro all the company wants is
10 just and reasonable rates. Well, in the rejoinder
11 testimony the case the company is requesting for its water
12 division side is a 98.82 percent increase in their water
13 utility. Let me repeat that, a 98.82 percent increase.
14 This is what the company believes is reasonable. RUCO is
15 recommending a 50.18 percent increase, slightly more than
16 half of what the company is recommending.

17 And this economy, as bad as it is, the
18 Commission, in RUCO's opinion, should not approve such a
19 large increase unless the company can show that it's not
20 only necessary but it's fair and reasonable to the
21 ratepayers. We think that the evidence will show that the
22 company's request is not reasonable or fair.

23 The company has chosen and recommends that the
24 Commission approve its actual 100 percent equity capital
25 structure. As evidence will show, when you have no debt,

1 you have no interest deductions to income taxes, which
2 results in higher rates to ratepayers, even if the
3 company's proxy of utilities has average capital structure
4 more balanced in equity and debt.

5 Not surprisingly the company's cost of equity
6 recommendation of 11.7 percent is significantly higher
7 than Staff's cost of equity recommendation of 9.2 percent
8 and RUCO's recommendation of 9.0 percent.

9 From the company's perspective, however, RUCO
10 continues to use "a results oriented methodology" in
11 coming up with its cost of capital recommendation. I
12 guess perspective is viewed from the eyes of the beholder.
13 From RUCO's perspective a cost of capital that results in
14 a 50 percent increase is far more reasonable and fair to
15 ratepayers and shareholders than one that results in a
16 100 percent increase.

17 And let me say, we are not even happy with the
18 50 percent increase, especially when you consider that
19 what we are recommending is a 27 percent decrease in the
20 wastewater division.

21 One of the larger issues in dispute concerns your
22 corporate allocations. Both Staff and RUCO rejected
23 significant amounts of costs incurred at the parent level.
24 RUCO's rejection of these costs is due primarily to its
25 belief that these costs are not necessary in a provision

1 of utility service.

2 The issue was recently litigated in the LPSCO
3 case currently pending before the Commission. LPSCO, like
4 Rio Rico, is one of the 17 regulated utilities whose
5 parent is the Algonquin Power and Income Fund, and the
6 decision on this issue should really be consistent with
7 the decision in the LPSCO case.

8 Hopefully this case will shed some light on
9 exactly what the organizational structure of this company
10 is because it appears to be influx. From what RUCO can
11 discern, however, only a very small percent of the
12 company's total allocated cost to be shared among the 17
13 utilities attributable to Rio Rico. Rio Rico's ratepayers
14 should not be subsidizing costs directly attributed to
15 other regulated utilities or even worse, the costs
16 associated with nonregulated energy producers who are also
17 affiliates of this parent company.

18 The company and RUCO also disagree on accumulated
19 deferred income taxes. This is a rate base adjustment
20 which measures the differences in timing of when income
21 taxes are calculated for ratemaking purposes and when the
22 actual income tax was paid by the company.

23 For ratemaking purposes evidence will show
24 straight-line depreciation is used. For actual income tax
25 purposes accelerated depreciation is used. If the result

1 is positive, then it's treated as an asset as the company
2 recommends here, and if the result is negative, it's
3 treated as a liability as RUCO recommends.

4 At least for the beginning years accelerated
5 depreciation is going to receive a straight-line, and
6 there should be a negative tax deferral. Rio Rico, like
7 most utilities, is constantly adding and replacing
8 infrastructure so its rate base is growing. As it
9 continues to grow, it only makes sense that its deferred
10 income taxes will be negative.

11 The evidence will show that the company in its
12 2008 annual report -- and remember 2008 is the end of the
13 test year, December 31st -- reported a \$73,000 ADIT
14 liability. Not surprisingly, according to the company,
15 this is an error; the figure shown in the report is a
16 deferred rate case expense allegedly.

17 Finally one other point on this issue. I suspect
18 you will hear from the company how the Commission rejected
19 RUCO's methodology for calculating ADIT in the Black
20 Mountain case, which is based on an allocation from the
21 parent. Here is the rub, though, with that argument.

22 In this case the company insists that this
23 Commission allow it to allocate its affiliate costs from
24 its parent, but it's not okay to allocate its beta costs.
25 You can't have it both ways.

1 Likewise, when we are talking about the
2 publicly-traded parent company, when it comes to the issue
3 of cost of capital, in particular debt financing, it
4 appears that this large publicly-traded company does not
5 exist from Rio Rico's perspective.

6 RUCO does not support the allocation -- or excuse
7 me -- does support the allocation of affiliate cost; don't
8 get me wrong, but disagrees primarily with the majority of
9 the costs included in the parent allocation pool.

10 Finally, there are some other small disputed
11 issues in the case, including rate case expense, which as
12 days go on we will get to. Thank you.

13 ALJ RODDA: Thank you, Mr. Pozefsky.

14 Ms. Mitchell?

15 MS. MITCHELL: Thank you, Judge Rodda. Good
16 morning again.

17 Rio Rico Utilities filed an application for a
18 rate increase for its water and wastewater divisions in
19 May of 2009. The company adjusted its request in its
20 rejoinder testimony and is now seeking a 98.82 percent
21 rate increase for its water division and decrease of
22 7.34 percent for its wastewater division. The company had
23 initially sought an increase of 111.36 percent increase
24 for its water division and a decrease of 4.87 percent for
25 its wastewater division.

1 According to the company the driving force for a
2 dramatic request for increase in rates comes from the
3 investment of a sizeable amount of dollars in plant for
4 the water division. Rio Rico has not sought an increase
5 in rates since 2002.

6 Staff has recommended for the water division a
7 71.85 percent increase and for the wastewater division
8 Staff has recommended a 18.46 decrease.

9 While there are a number of issues that have been
10 resolved among the parties, there are remaining issues
11 that are in dispute.

12 This is a case and an application involving
13 Algonquin-owned utilities, and the issue of cost
14 allocation from the central office is always in dispute.

15 Rio Rico is a wholly-owned subsidiary. And I
16 just want to track the history a little bit of Rio Rico
17 and their involvement with Algonquin.

18 Rio Rico is a wholly-owned subsidiary of Liberty
19 Water, and Liberty is owned by Algonquin Power Income
20 Fund, which recently changed its status from a mutual fund
21 to a corporation, which is now known as Algonquin Power
22 and Utilities Corporation.

23 Algonquin acquired Rio Rico in 2005. According
24 to Algonquin Power's fourth quarter 2009 report they
25 conduct their business through two business arms. One is

1 Algonquin Power Company, which owns some hydroelectric
2 facilities in Canada and in the U.S. They also own a wind
3 farm in Manitoba, and they also have 11 thermal energy
4 facilities.

5 Now, according to their fourth quarter 2009
6 report, Liberty Water operates 18 water and wastewater
7 utility services in Arizona, Illinois, Missouri and Texas.
8 The Liberty Water companies in Arizona are Litchfield Park
9 Service Company, Gold Canyon Sewer Company, Black Mountain
10 Sewer Company, Northern Sunrise, Southern Sunrise, Bella
11 Vista, and Rio Rico. I think I left a company out.

12 According to Algonquin's 2009 fourth quarter
13 report Algonquin Power and Utilities', which used to be
14 the Algonquin Power Income Fund, business strategy is to
15 maximize long-term shareholder value as a dividend paying,
16 growth-oriented corporation. They are committed to
17 delivering a total shareholder return comprised of
18 dividends augmented by capital depreciation.

19 Now, Liberty Water is the entity that provides
20 all of the day-to-day administrative and operation
21 personnel for the regulated utilities, including Rio Rico.
22 Some of the services, such as operations and engineering
23 and labor costs, are directly charged from Liberty to Rio
24 Rico. Some services not directly charged, such as
25 accounting, billing, and customer service, that they're

1 allocated based on customer counts.

2 In addition to those costs, there are costs that
3 are allocated from the Algonquin corporate parent. There
4 is pool of costs, which you will hear referred to through
5 this case as central office costs. It is this cost pool
6 and allocation method that has caused the most
7 disagreement in this case. Of this pool Staff has
8 recommended allowance of only 10 percent of this cost
9 pool.

10 It should be noted that Staff is not opposed to a
11 shared-services model. We can recognize that there are
12 some benefits to such a model and some cost efficiency and
13 perhaps an increase in reliability and service. However,
14 under traditional ratemaking, expenses that are
15 recoverable in rates should be incurred and should be
16 recovered while providing services to the ratepayers.

17 Rio Rico is on notice because of the Commission
18 decisions of its sister companies, Gold Canyon and Black
19 Mountain, that its model and its cost allocations will be
20 subject to further scrutiny.

21 To its credit, the company has removed affiliate
22 profits, which was the source of much disagreement, in the
23 2005 Black Mountain rate case and the 2006 Gold Canyon
24 case. And the company has also removed affiliate profits
25 in the pending case for Litchfield Park.

1 Although the company argues that a
2 shared-services model is cost effective, there is still
3 some doubt as to the reasonableness of the expenses where
4 a company, such as Rio Rico, has no ability to negotiate
5 for its services in an arm's-length transaction.

6 In an open competitive market it is reasonable to
7 assume that contract prices reflect market prices. But
8 when Staff reviews invoices that were submitted to be
9 recovered for such things as a hootenanny -- and I just
10 had to use that word hootenanny, because I didn't know
11 that they knew what at hootenanny was in Canada. I'm from
12 the South, and we all know what that was. You know, I
13 didn't know that they had such things in Canada.

14 But when we see invoices for things like
15 hootenannies and charitable contributions, things which
16 obviously aren't necessary for the provision of service,
17 it does give Staff pause that some costs that are asked to
18 be allocated are reasonable and necessary to provide
19 services to the ratepayers of Rio Rico.

20 This is not a question of how a utility can
21 operate, but of what reasonable cost and expenses a
22 utility should be allowed to pass on to its captive
23 ratepayers.

24 As Mr. Shapiro and Mr. Pozefsky indicated, there
25 are some disagreement among the parties, among accumulated

1 deferred income taxes, and I too hope to maybe understand
2 exactly what that is, but I'm glad I have witnesses who
3 do.

4 The parties also disagree on cost of capital.
5 Staff has recommended a return of equity of 9.2 percent,
6 which reflects a 110 basis points downward adjustment
7 using the Hamada equation.

8 Staff has also recommend using the company's
9 actual capital structure where RUCO has proposed a
10 hypothetical capital structure of 60 percent equity and
11 40 percent debt. The company has proposed an 11.7 cost of
12 equity.

13 The company changed its recommendation initially
14 from its filing of 12.4 percent to 11.7 percent citing
15 the recovering economy as one of the reasons for its
16 adjustment. But it should be noted that even though the
17 recession is over and economists see a long, sluggish
18 recovery, the company's recommended cost of equity is
19 beyond the range of returns ordered by the Commission in
20 recent cases. Staff's cost of equity recommendation is
21 consistent with Commission decisions and should be
22 adopted.

23 There is some disagreement among the company and
24 Staff on rate design. Staff's rate design provides
25 economic benefit for its customers, it limits consumption

1 and it disputes the company's assertion that Staff's rate
2 design causes excessive revenue shifting.

3 The company has proposed a low-income tariff,
4 which is supported by Staff with some modification.

5 Staff's position on the hook-up fee tariff is
6 that it's not needed by the company at this time and the
7 company's request should be denied.

8 Staff will present its case through three
9 witnesses: Gerald Becker for revenue requirement and rate
10 design, Jian Liu on the engineering issues, and
11 Juan Manrique for cost of capital.

12 Mr. Shapiro noted in his opening that the company
13 is just seeking a fair return on its investment and a fair
14 return to allow it to operate and recover its expenses.
15 While that is true, that that is what the company is
16 entitled to, the Commission is tasked by the constitution
17 to balance the needs of the utility with the needs of its
18 ratepayers. Staff's recommendations are reasonable in
19 this case and should be adopted.

20 Thank you.

21 ALJ RODDA: Okay. Thank you, Ms. Mitchell.

22 All right. With that, Mr. Shapiro, I will ask
23 that you call your first witness. So I think it's
24 Mr. Sorensen; right?

25 MR. SHAPIRO: Right, but could Ms. Mitchell spell

1 hootenanny first?

2 ALJ RODDA: I was going to ask you.

3 MS. MITCHELL: I think it's

4 h-o-o-t-n-e-n-a-n-n-y.

5 And I should also note, even though I'm going to
6 say I'm really not that old, that there was a show that
7 used to come on TV called Hootenanny, and it was a music
8 show, sort of like American Bandstand, but someone told me
9 about it, because I was a mere child in the '60s.

10 ALJ RODDA: You can swear in the witness, please.

11

12 GREGORY SCOTT SORENSEN,

13 called as a witness herein, appearing on behalf of the
14 Applicant, having been first duly sworn by the certified
15 court reporter, was examined and testified as follows:

16

17 DIRECT EXAMINATION

18

19 Q. (BY MR. SHAPIRO) Why don't you go ahead and
20 state your full name and business address for the record.

21 A. Yes. My name is Gregory Scott Sorensen. My
22 business address is 12725 West Indian School Road, Suite
23 D-101, Avondale, Arizona 85392.

24 Q. And who are you employed by, Mr. Sorensen?

25 A. By Liberty Water.

1 Q And Liberty Water is the parent company of Rio
2 Rico Utilities, Inc.; correct?

3 A It is essentially the managing operating company
4 that is an affiliate of Rio Rico Utilities, Inc.

5 Q Liberty Water, Inc. is the actual parent company?

6 A Yes.

7 Q Okay. And just to follow up, where did the name
8 Liberty Water come from? That is a new name, isn't it?

9 A Yes, it is. Algonquin, as the company is
10 formally known as, the parent company, was -- the name was
11 changed back in August of last year. Several reasons for
12 it, one of which was that the name, Algonquin, had no
13 resonance whatsoever with our customers here in Arizona or
14 Texas or Missouri. There was an Indian tribe near where
15 the parent company is headquartered up in Oakville,
16 Ontario. Algonquin might be familiar with people living
17 in perhaps Michigan or upstate New York, but the name
18 didn't have any resonance down here.

19 Also many of the customers and people in the
20 communities that we serve had trouble pronouncing it and
21 spelling it, getting to the Web site because they couldn't
22 spell it. So we felt it best for that, among other
23 reasons, that we undertake the name change.

24 So we did some surveys, mostly amongst our
25 employees here in Arizona, as far as what the name should

1 be changed to, and Liberty Water was the overwhelming
2 name.

3 Q And are you attempting to go bring all of the
4 operating utilities under the operating name Liberty
5 Water?

6 A Yes, we are, whether those be near in Arizona or
7 whether they be in Texas or Missouri or Illinois or any
8 future states that we may operate in, yes.

9 Q Does the name change reflect any change in the
10 manner in which the utilities that are owned by Liberty
11 Water, Inc. in Arizona are operated?

12 A We hope there are differences with regard to
13 billing. Hopefully the standardization of the name across
14 all our utilities will allow us to do better things in our
15 billing and customer service, providing it will help us
16 with some online bill pays that we want to be able to do.
17 It will give customers greater flexibility. We hope to
18 also enhance our customer service and billing platform to
19 allow for more and better information accessible by
20 customers in the future. Keeping us under one name will
21 help us to do that.

22 Q Can you assure this Commission, Mr. Sorensen,
23 that the change to Liberty Water doesn't have anything to
24 do with an effort to increase the value of the company for
25 sale?

1 A. No. No. In fact, there was a fair question or
2 comment by County Supervisor Maynard with regard to, well,
3 you know, last time the owner of Rio Rico went through a
4 rate case they then turned around and sold the company
5 shortly thereafter to Algonquin.

6 From everything I know of the company, that is
7 not our intent and also not our pattern. I'm not aware
8 off Algonquin ever having sold a utility. Algonquin is
9 also in the business of buying and holding its utilities,
10 not turning around and selling them.

11 Q. Have you testified before the Commission before?

12 A. Yes.

13 Q. In fact, you have testified in the other two
14 pending rate cases for Liberty's subsidiaries?

15 A. Yes, I have. And I filed direct testimony at
16 this point in I guess three -- whether you want to look at
17 them as three or one, which is the Bella Vista, Northern
18 Sunrise and Southern Sunrise cases, but that has not yet
19 reached the line of testimony stage yet.

20 Q. And quickly the topics of your testimony in this
21 case, those deal with kind of an overview of the
22 applicant, Rio Rico Utilities?

23 A. Yes.

24 Q. And you have also discussed significant
25 improvements or operational changes since the last rate

1 case?

2 A. That is correct.

3 Q. And then the other three issues that you
4 addressed are low-income tariff, the hook-up fee tariff,
5 and issues in response to Staff's concerns over
6 non-account water?

7 A. That is correct.

8 Q. Okay. Do you have in front of you what should be
9 marked as Exhibit A-1?

10 A. Yes, I do.

11 Q. Is this, in fact, a true and correct copy of your
12 direct testimony?

13 A. Yes, it is.

14 Q. And that was direct testimony prepared by you
15 and/or under your direct supervision, Mr. Sorensen?

16 A. Yes, it was.

17 Q. Do you wish to make any change to your direct
18 testimony at this time?

19 A. No, I don't.

20 Q. Let's see if you have Exhibit A-2 up there.

21 A. Yes.

22 Q. Okay. Is that a true and correct copy of your
23 prefiled rebuttal testimony?

24 A. Yes, it is.

25 Q. Was this testimony also prepared by you and/or

1 under your direct supervision?

2 A. It was.

3 Q. Do you wish to make any changes to your rebuttal
4 testimony at this time?

5 A. No.

6 Q. Lastly, Exhibit A-3, is that up there?

7 A. Yes, it is.

8 Q. Is Exhibit A-3 a true and correct copy of your
9 prefiled rejoinder testimony?

10 A. Yes, it is.

11 Q. And was this also prepared by you or under your
12 direct supervision?

13 A. Yes, it was.

14 Q. Do you have any changes to make to your rejoinder
15 testimony in this case?

16 A. No.

17 Q. Mr. Sorensen, if I were to ask you today the same
18 questions that you were asked in Exhibits A-1, A-2, and
19 A-3, would your answers be the same today?

20 A. Yes, they would.

21 MR. SHAPIRO: With that, Your Honor, I will move
22 Exhibits A-1, A-2, and A-3.

23 ALJ RODDA: Any objections to A-1, A-2, or A-3?

24 MR. POZEFSKY: No.

25 MS. MITCHELL: Your Honor, on A-3, in

1 Mr. Sorensen's testimony he mentions some master plan
2 report, but the exhibit attached to his testimony only has
3 a couple pages from it.

4 I'm just curious as to where the remainder of the
5 master plan -- I mean, it's difficult to tell. This just
6 popped up in rejoinder. I don't know if I have a way of
7 cross-examining Mr. Sorensen on the entire contents of the
8 plan. I don't know if they were planning to introduce the
9 author of this master plan.

10 But I do have some concerns as to the lateness of
11 the introduction of this plan, particularly when the
12 testimony speaks to possible water shortages, that we have
13 not heard of throughout the pendency of this case.

14 ALJ RODDA: I guess the question was, do you have
15 the whole plan with you?

16 MR. SHAPIRO: I think we have one copy. It's
17 over 300 pages, which is why we chose not attach it or to
18 introduce it.

19 As far as Ms. Mitchell's comments regarding
20 lateness, we filed the rejoinder testimony in response to
21 Staff, and we had to file it late because of Staff's
22 filing changes.

23 So we didn't know -- as Mr. Sorensen says
24 straight out in his testimony, until we reviewed Mr. Liu's
25 exhibit in his surrebuttal, where he made calculations, we

1 had no reason to believe that the master plan would be
2 relevant in any way.

3 So I don't think there is any issue as to
4 lateness. Certainly Mr. Sorensen is here and will do his
5 best to answer any questions about it; if we can't, we
6 will have to bring in somebody who may be able to. But I
7 don't think there is any basis to exclude it at this time.

8 ALJ RODDA: Right. The timing of the testimony
9 has been difficult in this case. But if Staff wants to
10 looks at it just to see what was in the rest of the
11 report, it's available?

12 MR. SHAPIRO: I think we can have one brought up.
13 I guess there is not one here now, but we can have one
14 brought up tomorrow, and Staff is certainly free to review
15 it if they would like to.

16 ALJ RODDA: Well, I am going to admit the
17 testimony, including the exhibit. I understand the
18 difficulty, but it is --

19 MS. MITCHELL: I just want the opportunity to
20 look at them. And there is some testimony about water
21 shortages and how Staff made its calculation, which Staff
22 used company water-use data sheets for its calculation.
23 So we just need to get to some understanding, you know, if
24 they have capacity problems or don't they.

25 ALJ RODDA: So we will attempt to do that through

1 this proceeding --

2 MS. MITCHELL: Okay. Thank you.

3 ALJ RODDA: -- as best we can.

4 With that I'll admit, in case it wasn't clear,
5 A-1, A-2, and A-3.

6 (Exhibits A-1, A-2, and A-3 were admitted into
7 evidence.)

8 Q (BY MR. SHAPIRO) Just a couple follow-up
9 questions based on some things this morning.

10 There was some comments made regarding an
11 organizational transition.

12 Is that consistent with what you testified to
13 earlier regarding the change to Liberty Water?

14 A. Could you refresh my memory on exactly what
15 organizational transition -- there was transfers.

16 Q. There was concerns about the possibility that
17 you're going through some organizational transitions.

18 Other than what we have heard today, which was
19 the change in the name Liberty Water and a change in the
20 parent company name -- first off, are you aware of any
21 other what would qualify as organizational transition?

22 A. No.

23 Q. And again, does the change from APIF to APUC or
24 the change from Liberty Water affect the cost of
25 operations directly or cost of service or the manner in

1 which service is provided?

2 A. No.

3 Q. There was also concern expressed by a couple
4 customers over some water outages.

5 Are you familiar with that being raised in your
6 Rio Rico system?

7 A. Yes. I heard -- well, I heard of issue being
8 raised this morning, and there were two customers that
9 spoke to that issue, one which counts -- County Supervisor
10 Maynard said he believed that they were related to, you
11 know, power outages or pipes freezing in the area or
12 something to that effect.

13 We will look into those two specific instances.
14 I asked Martin Garlant, head of our operations, as well as
15 Dara Mora, to look into those situations and make sure
16 there isn't any systematic problem or pattern of outages
17 or anything like that.

18 We do examine outages. We do, based upon
19 discussions, track outages, and nothing has been brought
20 further, certainly with Commission complaints with regard
21 to outages, that it has been a problem. That didn't mean
22 we don't take it seriously. And if there is an outage
23 that is within our control, we need to address it.

24 So those instances where you do have power or you
25 do have -- if it could be a construction contractor that

1 digs up and hits a line or something like that, even
2 though we blue staked it, those are things that are
3 possibly beyond our control, but that doesn't mean that it
4 doesn't impact the customers, so we have to get to causes
5 for those outages.

6 Q Does Rio Rico Utilities, in your view, have any
7 problem with lost water?

8 A Problem with lost water, no. I do understand
9 Staff's analysis of lost or unaccounted for water that
10 during the test year was 10.22 percent. I realize that
11 very marginally goes over the threshold that Staff
12 considers to be a problem.

13 And so when that was brought out by Staff, I
14 believe in Mr. Liu's direct testimony, we went back and
15 looked, okay, well, yes, it was just slightly over
16 10 percent, but let's take a look and see if we have a
17 problem in prior years and in years since the test year,
18 since we had that data available as well.

19 And I believe that was incorporated in probably
20 my rebuttal testimony, and you will see in the years since
21 the last test year -- I believe it was seven total
22 years incorporated -- the only year in which we were over
23 the 10 percent threshold for water loss as Staff assessed
24 was the test year. Every other year was below, and I
25 think in most instances significantly below that

1 10 percent threshold.

2 So I don't believe we have a water problem. It
3 almost looks like the test year was maybe an anomaly; an
4 unfortunate anomaly because of its timing, but had it been
5 the opposite where the test year were 8 percent, the only
6 year that was above the 10 percent was in 2005, we
7 wouldn't be discussing it as an issue.

8 Q But there is no connection between any amounts of
9 lost or unaccounted for water and the concerns that were
10 expressed over outages that you are aware of?

11 A Not that I'm aware of, no.

12 You know, to the extent if there is unaccounted
13 for water, you know, we try to track that to the best of
14 our ability. Whether that be water leaks, whether that be
15 fire usage, we try to and track those things and make
16 estimates as best as possible.

17 Temporary water outage be caused by high water
18 use due to fighting fires, yes, it could be, but that is
19 something that if we are called in our office that there
20 is a water outage or low pressure, that is something we
21 look into as possibly a cause.

22 Q Lastly, Mr. Sorensen, again, you were here during
23 the public comment this morning?

24 A Yes.

25 Q Okay. And while ratepayers and companies often

1 have different views on things, I would like to give you a
2 chance to address the concerns that were expressed that
3 the shareholder failed to do adequate due diligence, has
4 made a bad investment and now like Enron, seeks bailout.

5 Would you like to respond to those comments?

6 A. I will try to do that slowly.

7 No, this company is nothing like an Enron. I
8 don't think Enron ever received any bailout anyway.

9 But from a ratemaking perspective if we did or
10 didn't make a mistake by the company, which I certainly
11 don't think we did in any manner, shape or form --
12 somewhat irrelevant from a ratemaking perspective -- if I
13 understand the way things generally go in the state, in
14 that if we paid too much or too little for the company, it
15 doesn't matter. If there is a purchase price premium or
16 the opposite -- I guess what we call negative goodwill --
17 that doesn't go into the computation of rates. We don't
18 get to include if we pay twice rate base for this company.
19 We don't get to include that 100 percent above rate base
20 in our rate application. At least to my knowledge with
21 the exception of maybe some very limited circumstances out
22 there, I don't think I have seen it in the state.

23 So if we made a bad or a good decision from a
24 purchase price standpoint, it doesn't make a difference
25 from a ratemaking standpoint. We don't get to pass that

1 along to our customers.

2 That is a decision. Everything we do in this
3 rate case has to be justified. It is a very open process
4 that is participated in not only by Staff, as well as by
5 RUCO, who represents our customer who spoke this morning,
6 both parties do have very ably. They are thorough in
7 their investigations. There isn't anything that gets to
8 be hidden by the company. The other parties in this case
9 did a great job.

10 So I hope our customers who may be listening in
11 and those here today understand that this is truly an
12 open-book process.

13 Q. Mr. Sorensen, can you just briefly explain, there
14 was some concern over the magnitude of the rate increase
15 for the water division.

16 You heard that?

17 A. Certainly.

18 Q. Can you explain what is driving the requested
19 increase by Rio Rico Utilities to its services -- to its
20 rates for water utility services?

21 A. Well, one of the main drivers for this, I think,
22 is, even as Ms. Mitchell stated in her opening, is that we
23 had significant capital investment in the water side since
24 the last rate increase or rate adjustment for Rio Rico.
25 Roughly over \$4 million I believe was invested on the

1 water side of the utility.

2 A lot of it had to do with the wells, including
3 rehabilitation of a couple of water plants. This is, or
4 at least was what was required in a somewhat aging system.
5 There is still more rehabilitation that needs to be done,
6 but a significant amount of it has been completed as of
7 the end of the test year.

8 So that \$4 million that went into wells and water
9 plants is probably the most significant driver of the
10 increase in rates.

11 Q And all parties agree that that plant is used and
12 useful; correct? There is no dispute about that in this
13 case?

14 A. None that I have seen.

15 Q And does that mean that there hasn't been any
16 investment in the wastewater division, is that why rates
17 are going down or can you give me a summary of where the
18 wastewater division stands?

19 A. No. No. I just think between the growth that
20 has occurred in the wastewater division and the amount of
21 capital investment in the wastewater division coupled with
22 depreciation in the waste side, you just saw, I believe,
23 declined rate base and to some extent hopefully a cost
24 savings on the operating costs on the wastewater side
25 compared to the last rate case.

1 And those -- you know, mathematically our numbers
2 fall out and result in a rate decrease for the wastewater
3 side. And, you know, we, I guess, suppose could have just
4 come in and requested a rate increase on the water side
5 and not file it on the wastewater side, but I don't think
6 that -- trying to step back and look at that fairly and
7 equitably, I don't think that that would have been right.

8 So as you mentioned, Mr. Shapiro, while this may
9 be a first in your 18 years of practicing before this
10 Commission, you now do have an actual requested rate
11 decrease that you can put on the company resume.

12 MR. SHAPIRO: Thank you.

13 Judge Rodda, I don't have any more questions for
14 Mr. Sorensen except a come more follow-up questions
15 regarding the HUF, but I will hold those until Friday to
16 not disadvantage Rio Rico Properties, so with that we will
17 tender Mr. Sorensen.

18 ALJ RODDA: Okay. Thank you, Mr. Shapiro.

19 Mr. Pozefsky.

20 MR. POZEFSKY: Thank you, Your Honor.

21

22 CROSS-EXAMINATION

23

24 Q. (BY MR. POZEFSKY) I would like to pick off where
25 we left off a little bit.

1 Good morning, what is left of it.

2 A. Good morning.

3 Q. Just over the topic about what has been added
4 since the last rate case.

5 You would agree that the company has added
6 replacement approved -- significant amount of plant since
7 the last rate case; correct?

8 A. Yes. Yes, it has.

9 Q. And you added wells?

10 A. Wells, and then rehabilitated some water plant.

11 Q. You replaced two booster pumps for plant No. 1?

12 A. Yes.

13 Q. Two booster pump stations?

14 A. Uh-huh. Correct.

15 Q. And that was in the tune of \$830,000 I believe?

16 A. Yes, I believe back in 2003 roughly.

17 Q. You replaced the booster station for water plant
18 No. 59 at a cost of \$550,000; is that correct?

19 A. Yes, as well as, I believe, either replaced or
20 added telemetry.

21 ALJ RODDA: Your voice is soft or something.

22 THE WITNESS: I'm sorry. I'll move it.

23 Yes, I believe we either replaced or added
24 telemetry so that would tie into the SCADA.

25 Q. (BY MR. POZEFSKY) And the company replaced a

1 25-year-old booster station, plant No. 81, and built a
2 huge, mega, one-million-gallon storage facility at a cost
3 of approximately \$1.1 million; is that correct?

4 A. I don't know if I would characterize it as huge
5 or mega, but, yes, it is a one-million-gallon storage
6 facility, yes, sir.

7 Q. I added that.

8 MR. SHAPIRO: That is a lawyer's term.

9 Q. (BY MR. POZEFSKY) So that gets us to about 2.8
10 or maybe 2.9 million. So beyond that there was what, an
11 additional 1 or \$1.5 million in addition to that that we
12 are talking about roughly?

13 A. Yes, I believe -- well, looking back at the
14 direct testimony, well No. 6, well No. 15, well
15 refurbishment was roughly 1.2 million, I believe.

16 Q. Okay.

17 A. And well No. 86 was \$425,000.

18 ALJ RODDA: I think you are looking at something,
19 but I can't see over this ledge.

20 THE WITNESS: Yes. This is actually in my direct
21 testimony, page 7.

22 ALJ RODDA: Great. Thank you.

23 Q. (BY MR. POZEFSKY) That is all I had on that
24 subject.

25 Let me ask this and move on. I did have some

1 questions on the corporate structure. I think they relate
2 more to the central office allocation.

3 Mr. Eichler would be familiar with both the
4 corporate structure and the allocations? He is your
5 witness for that; correct?

6 A. Yes.

7 Q. Okay. And then finally, Mr. Sorensen, you have
8 testified obviously before in the Commission in many cases
9 before.

10 Is that a fair statement?

11 A. Several, yes.

12 Q. Do you recall ever testifying in past cases that
13 you would not accept an invoice that lacked detail? Do
14 you recall ever saying that?

15 A. That I would not accept an invoice that lacks
16 detail?

17 Q. Yeah. Right.

18 A. It is possible that I would have stated that.
19 Hopefully I would have qualified it. If so, that maybe on
20 the surface I would not accept it, but I would ask more
21 questions.

22 If it just had a number on it, I would think that
23 that would require additional investigation. But it
24 doesn't make it right or wrong, just additional
25 investigation required. But it's possible that I said in

1 that testimony on something, certainly.

2 MR. POZEFSKY: Thank you, sir. That is all I
3 have.

4 ALJ RODDA: Okay. Ms. Mitchell?

5 MS. MITCHELL: Thank you, Judge Rodda.

6

7 CROSS-EXAMINATION

8

9 Q. (BY MS. MITCHELL) I want to talk a little bit
10 about the capacity on your sewer side.

11 A. Okay.

12 Q. And can you explain to me, just how you -- how
13 the company treats its sewer flow?

14 A. The effluent wastewater?

15 Q. Yes.

16 A. There are two different, for lack of a better
17 term, treatment streams. For the north basin we have,
18 which encompasses the, as it states, the northern portion
19 of our service territory, it actually uses a pond or a
20 lagoon-type system. For the majority of our wastewater
21 customers the sewage effluent is conveyed or transferred
22 to the City of Nogales and the International Wastewater
23 Treatment Plant where it's processed. And we paid for
24 capacity in that, and then we also pay a per-thousand
25 gallon -- or actually we just pay a monthly charge to the

1 City of Nogales for that treatment.

2 Q. And there is an agreement that the company has
3 with the City of Nogales for the treatment and also to
4 purchase additional capacity; is that correct?

5 A. Yes, I believe it's a 1996 agreement or so.

6 Q. Would you like to see a copy? I think I will
7 show you one.

8 A. I would love to see one.

9 MS. MITCHELL: Your Honor, may I approach?

10 ALJ RODDA: Yes.

11 MS. MITCHELL: And I never premark exhibits
12 anymore because it always gets mixed up.

13 Okay. This will be S-1.

14 ALJ RODDA: Good thing I'm flexible and
15 accommodating with both ways of operating.

16 Q. (BY MS. MITCHELL) Mr. Sorensen, I have handed
17 you what I have marked as Staff Exhibit S-1.

18 Could you identify that?

19 A. This is the wastewater treatment services
20 agreement between City of Nogales and Rio Rico Utilities,
21 Inc., dated 20th of November, 1996.

22 Q. All right. I was a little confused reading your
23 direct testimony.

24 Has the company purchased additional capacity
25 beyond the 550,000 --

1 A. No, ma'am.

2 Q. -- gallons per day?

3 A. No, ma'am. No, ma'am. We haven't.

4 Q. So was that the last purchase under -- pursuant
5 to this agreement of capacity?

6 A. Yes. We have in aggregate the rights to convey
7 550,000 gallons per day of sewage to the City of Nogales
8 and the Nogales International Treatment Plant.

9 Q. Now, if you needed more capacity, does this
10 agreement allow you to purchase more?

11 A. It allows a framework to possibly purchase more
12 if there is more available, but I don't believe -- and
13 forgive me; I'm not a lawyer. So there could be some
14 interpretation as to whether we have the right to purchase
15 additional or not. And again, I believe it is subject to
16 availability.

17 Q. All right. And you weren't involved -- this was
18 before your time with the company; correct?

19 A. Yes, ma'am, I believe I was still back in Georgia
20 at that time.

21 Q. Okay. That is okay. I like Georgia. That is a
22 nice place.

23 I also understand that there has been a
24 memorandum of understanding between the company and the
25 City.

1 Are you familiar with that agreement dated
2 December 8, 2006?

3 A. Yes. I have seen that at some point, yes.

4 MS. MITCHELL: Your Honor, can I approach again?

5 ALJ RODDA: Yes.

6 MS. MITCHELL: I will mark this as S-2.

7 Q. (BY MS. MITCHELL) Mr. Sorensen, I have given you
8 what I have marked a Staff Exhibit S-2.

9 Could you identify that for the record?

10 A. It's a memorandum of agreement dated the 8th of
11 December 2006 between City of Nogales and Rio Rico
12 Utilities, Inc.

13 Q. Are you familiar with this agreement? I want to
14 ask you a couple questions.

15 A. I have seen it before. I will try to address
16 your questions, if I can.

17 Q. All right.

18 ALJ RODDA: Can I just ask before you start --
19 it's signed by Robert Dodd, I guess.

20 THE WITNESS: Yes.

21 ALJ RODDA: Who is that?

22 THE WITNESS: He is my boss. He's the vice
23 president of service delivery, and he resides there in
24 Oakville, Ontario.

25 ALJ RODDA: Okay. I'm sorry, Ms. Mitchell.

1 MS. MITCHELL: No problem.

2 Q. (BY MS. MITCHELL) On the first page of this
3 agreement it says that the -- in one of the whereas
4 clauses it states that the company 1 and 2 acquire an
5 additional 190,000 gallons of wastewater treatment
6 capacity.

7 Did the company ever acquire this 190,000 gallons
8 of treatment capacity?

9 A. No, ma'am, we did not.

10 Q. So there was no formal agreement negotiated
11 beyond this memorandum of understanding?

12 A. No.

13 MS. MITCHELL: All right. Before I forget, I
14 would like to move for the admission of S-1 and S-2.

15 ALJ RODDA: Any objections to S-1 or S-2?

16 MR. SHAPIRO: No.

17 ALJ RODDA: Okay. S-1 and S-2 are admitted.

18 (Exhibits S-1 and S-2 were admitted into
19 evidence.)

20 Q. (BY MS. MITCHELL) I want to turn to the issue of
21 water loss.

22 A. Certainly.

23 Q. You reviewed the Staff recommendation in
24 Mr. Liu's surrebuttal testimony?

25 A. I reviewed it, and in conjunction with Martin

1 Garlant, our manager of the facility, as well as our
2 in-house engineers, we reviewed it together, certainly.

3 Q And I notice that you stated that you thought
4 that the test-year water loss was an anomaly; is that
5 correct?

6 A In looking at the years 2003 through 2009, yes,
7 it did appear that that was the one year where water loss
8 was above -- or unaccounted for water was above the
9 10 percent threshold that I believe Staff typically
10 utilizes in water companies.

11 So I would I guess view one out of seven being an
12 anomaly as a rule.

13 I think Staff's original review, the concern may
14 have come because they had not seen the 2009 report. So
15 perhaps they -- I don't want to speak for Staff -- but
16 perhaps they looked at that and said, oh, maybe we have a
17 trend here that is going in the wrong direction.

18 So as part of my rebuttal testimony, I believe we
19 included the water loss and unaccounted for water for
20 2009, which I would have to look at, but I know it was
21 significantly below the 10 percent threshold.

22 If you will forgive me, I will look at what the
23 number was.

24 Q Certainly.

25 A 6.3 percent for 2009. Coupled with that, that is

1 why I would believe it was more of an anomaly or a trend.

2 Q Is the company opposed to providing a report
3 concerning its water loss for the current test year?

4 MR. SHAPIRO: Ms. Mitchell?

5 MS. MITCHELL: I mean, not the test year, I mean
6 for the current years.

7 MR. SHAPIRO: Are you clarifying, is the company
8 opposed to Staff's recommendation or are you asking for --

9 MS. MITCHELL: Yes.

10 MR. SHAPIRO: Is that the recommendation that
11 Mr. Liu made in his surrebuttal or the recommendations he
12 made in direct?

13 MS. MITCHELL: In surrebuttal.

14 MR. SHAPIRO: Thank you very much.

15 MS. MITCHELL: No problem.

16 THE WITNESS: Can I go ahead?

17 ALJ RODDA: If you understand.

18 THE WITNESS: I think that is a loaded question.

19 No, I believe that given all the facts and
20 circumstances that have gone back and forth between Staff
21 and the company on water loss and unaccounted for water, I
22 think that is a reasonable request on behalf of Staff to
23 make, that says, well, Mr. Sorensen, the reporting of this
24 is no problem; let's just keep an eye on it.

25 And filing a report, we also track the lost and

1 unaccounted for water anyway, so I see no real problem in
2 providing Staff an annual report.

3 I believe the time frame was 30 days. I did not
4 check to see if that is our normal time frame to produce
5 the report. That would be the only thing that I could
6 think of.

7 Q. (BY MS. MITCHELL) We could probably be flexible
8 on the dates.

9 A. You know, Ms. Mitchell, if you guys are flexible
10 on the timing on that, then I have no issue with Staff's
11 request on that. I think it's very appropriate.

12 Q. All right. But you agree that -- you would agree
13 with me that water loss over 10 percent is a significant
14 problem for companies?

15 A. To me I think it is an identifier as something to
16 look into, and I think you will have to look at individual
17 facts and circumstances surrounding each case.

18 I think 10 percent is a fine line in the sand to
19 at least raise a question.

20 Q. All right. There were some public comments -- I
21 think Mr. Shapiro may have asked you a couple questions.
22 There was some public comment by several people concerning
23 some water outages.

24 A. Yes. I heard two comments on that.

25 Q. There is not a water shortage? You don't think

1 the reason for the outage is --

2 A. No, ma'am.

3 Q. -- that you are running out of water?

4 A. No, I don't believe we are out of water. I think
5 we fine on our water supply from a well standpoint.

6 I think it may be something that we want to look
7 into with additional storage in the future, but I don't
8 think that we have, you know, a water system issue.

9 And as I mentioned, I think in response to some
10 of Mr. Shapiro's questions, we are going to be looking
11 into hopefully those two specific instances and seeing if
12 there is some sort of pattern or cause for concern.

13 But with any system, particularly in an area
14 where you could have lightening storms and power outages,
15 if water goes out temporarily during those times, and that
16 is maybe what they are referring to, I guess that would be
17 expected. It's not ideal or it's not what we would like,
18 but that can happen when power goes out. If a pump ceases
19 up and stops and you have to repair that part of your
20 system, you can have a temporary, hopefully a short,
21 outage. But certainly it shouldn't be anything repetitive
22 and systematic.

23 Q. I know you are not an engineer --

24 A. No, I'm not.

25 Q. -- by training, but are you familiar with the

1 ADEQ requirements on backups for pumping should there be
2 outages?

3 A. Yes.

4 Q. And the company does have appropriate backup
5 systems, you know, for the pumps, like perhaps maybe a
6 gas-generated pump?

7 A. I believe we have a portable generator that we
8 are able to take off to a well site or storage site that
9 can, you know, temporarily lend power. If you have a
10 systemwide outage, it becomes more difficult.

11 Q. All right. Thank you.

12 I know Mr. Eichler is really the person for cost
13 allocation, but there was something in your direct
14 testimony that I just had a question about. It's in your
15 direct on page 8 starting at about line 17.

16 Are you there?

17 A. Yes.

18 Q. You state there that the utility has also added
19 three full-time AWS contractor/employees dedicated to
20 RRUI, which is Rio Rico, since 2002.

21 I just wanted to ask a question about those three
22 employees.

23 A. Sure.

24 Q. Are they located there in Rio Rico?

25 A. Yes. That is what that is referring to, is

1 direct, whether it be operator or meter-reader-type
2 employees, yes.

3 Q And what services do they perform?

4 A Well, operators in general are going to perform
5 repair and maintenance. They are going to perform system
6 checks and inspections daily. They will do meter reading,
7 service line repairs. They may do service line
8 installation. They are providing the direct and
9 wastewater services to our customers.

10 Q Do you know if they live in the area? Are they
11 local residents? Do you know?

12 A I believe most of our employees are local
13 residents either to Rio Rico or possibly living in
14 Nogales.

15 Q So you were able to find local employees to
16 perform these -- local residents to perform these services
17 on behalf of the utility?

18 A Yes. I'm trying to think if we had anybody,
19 well, to consider nonlocal to Rio Rico, but I don't
20 believe.

21 In some cases you hire -- you interview and you
22 hire what you think to be good people, and if they need to
23 be trained specifically to water or wastewater, then we
24 will do so.

25 Q And they are Liberty Water employees; correct?

1 A. Yes.

2 Q. Okay. Just wanted to be clear.

3 I want to turn to the low-income tariff.

4 A. Okay.

5 Q. Have you looked at some of the -- well, yeah, you
6 did look at some of the suggestions that Staff had in
7 Mr. Becker's surrebuttal testimony.

8 Could you just elaborate a little on the
9 threshold issue?

10 A. On the income threshold?

11 Q. On the income threshold, yes.

12 A. Yes. We had the income threshold, I believe, at
13 100 percent of the federal poverty level. I believe
14 Mr. Becker brought out that that was different than
15 perhaps Chaparral City. That was maybe at 150 percent, if
16 I remember correctly.

17 That was more recognition that the income level
18 in our service territory in Rio Rico, in general we
19 believe to be lower on average than Fountain Hills, which
20 is where I believe Chaparral City serves, if I remember
21 correctly.

22 We have done a little bit of some brief Web site
23 research; I think it was hard to find Rio Rico's unique
24 situation, but it looked like the Nogales area perhaps had
25 18 percent population below the federal poverty level.

1 Q In your research did you do an analysis of
2 potentially how many customers that it will equate to in
3 the Rio Rico system?

4 A No, ma'am, we did not.

5 Q And having a low-income tariff is basically --
6 results in a subsidization from the other rate classes?
7 Is that your understanding of how it would be paid for?

8 A You said rate classes?

9 Q From your residential.

10 A From the other residential ratepayers, yes. I'm
11 sorry. I was associating rate class with meter size or
12 something.

13 But, yes, essentially that is what it is. It is
14 a subsidization of, in this case, utility rates, for those
15 below certain household income threshold by those who are
16 not in that low-income program.

17 Q And would the company just spread that
18 subsidization across the residential customer or are you
19 looking at doing it across the commercial? Are you asking
20 the commercial customers to assist in the subsidization?

21 A I'm trying to remember the design. I believe
22 that Staff recommended that it be limited to residential.

23 I mean, that is acceptable to the company, if
24 that is Staff's belief. Our understanding is that those
25 things are -- the low-income programs, they are relatively

1 new, and I believe Mr. Becker even stated so in one of his
2 rounds of testimony. These are relatively new.

3 Q They are new for water and wastewater?

4 A Yes.

5 Q It has been going on for some time in the
6 electric and gas world?

7 A Yes. I believe it's fair to say there is a
8 little bit of a finding the way in the process probably
9 between the company and Staff to figure out what is right,
10 and hopefully we will arrive at that here.

11 Q All right. And you were here -- you were in the
12 public comments when I believe it was Supervisor Maynard,
13 when he was giving his public comment?

14 A Yes, ma'am.

15 Q And he indicated that he had no problem with the
16 service. I bet that made you smile.

17 A Well, it certainly is a lot better than the
18 alternative, and it's one of our company's goals to
19 provide very high quality customer service.

20 So while it did my heart good to hear Supervisor
21 Maynard say that, there was also another customer prior to
22 him that had a concern with regard to his water. So, I
23 asked Mr. Garland to find him, and we are going to speak
24 with him and see what we can do.

25 You know, I don't really like to hear anything

1 about water service not being on. That is just not what
2 this company wants to hear or to be doing.

3 Q. But you would say in general that the company
4 provides service -- adequate and decent service in its
5 service territory?

6 A. I would like to say that we provide better than
7 adequate. Our goal certainly is not to just be adequate,
8 but we want to provide good and strong quality service for
9 customers both from an operational standpoint and also
10 from a customer service standpoint.

11 MS. MITCHELL: All right. I don't have any other
12 questions. Thank you, Mr. Sorensen.

13

14

EXAMINATION

15

16 Q. (BY ALJ RODDA) Good morning -- well, I missed
17 morning. Anyway, it's nice to see you again.

18 I just have a couple questions. I have more
19 regarding the hook-up fee issue, but we will address
20 that --

21 A. Friday morning.

22 Q. -- Friday.

23 So going back to the low-income tariff that you
24 were just discussing, did you -- just looking at your
25 rejoinder testimony, you mentioned the Chaparral City

1 Water case and the LPSCO case.

2 Did you fashion this proposal on those proposals
3 or those low-income tariffs?

4 A. Yes. Mr. Bourassa, who did the design of this
5 tariff, I believe, was instrumental in both the Chaparral
6 City as well as our Litchfield Park Service cases, and
7 this is similar to these.

8 As Mr. Becker, I believe, pointed out, there is a
9 difference with regard to the income threshold. Certainly
10 there may be some other minor difference, but in general
11 it was patterned after those.

12 Q. Okay. And is Mr. Bourassa the witness about
13 specific -- what is included in it? Like there is some
14 discussion or dispute about administrative fee.

15 Are you familiar with that?

16 A. I'm familiar with the discussion or dispute.

17 Q. Okay. And do you know, does the Chaparral City
18 or the LPSCO proposal, do they include that administrative
19 fee?

20 A. I know the LPSCO proposal did. I can't remember
21 if Chaparral City Water one did. I believe it did, but
22 Mr. Bourassa is probably the best one to ask that specific
23 on Chaparral City question since he was involved in the
24 design of that.

25 Q. And Litchfield Park or LPSCO, that is one of

1 your -- that is a Liberty company; right?

2 A. Yes, it is.

3 Q. But Chaparral City, that is not?

4 A. No, it is not.

5 Q. I have all of these questions on my little sticky
6 notes. Most of them have to do with the hook-up fee.

7 ALJ RODDA: All right. I think that is all the
8 questions I have for you, since everyone was so thorough,
9 until Friday, that is.

10 So, Mr. Shapiro, did you have anything else?

11 MR. SHAPIRO: Very little, so I would suggest we
12 do it before lunch.

13 ALJ RODDA: I agree.

14

15 REDIRECT EXAMINATION

16

17 Q. (BY MR. SHAPIRO) The threshold for qualification
18 for the low-income tariff that Liberty proposed for LPSCO,
19 that is at the 150 percent level?

20 A. I believe it was.

21 Q. And Liberty has proposed a similar low-income
22 tariff in LPSCO, the Bella Vista pending cases, and this
23 one, correct, except for the threshold issue which you
24 discussed?

25 A. Correct.

1 Q Do you have Exhibit A-2 -- I'm sorry -- S-2?

2 A Yes.

3 Q You are aware, Mr. Sorensen, aren't you, that Rio
4 Rico Utilities has relinquished any right under Exhibit
5 S-2 to purchase additional capacity?

6 A Any perceived right, you mean under S-1, right?

7 Q Under S-2. Let me start again.

8 S-2 provided --

9 A You are referring to 190,000 gallons?

10 Q Yes.

11 A Correct. That is specific to the 190,000
12 gallons, that's correct.

13 Q So to your knowledge under S-2 Rio Rico Utilities
14 has no right to acquire additional capacity from Nogales
15 today?

16 A Correct.

17 Q I think you just mentioned in your testimony that
18 you reviewed the water loss data and the issue with your
19 operators and engineers; do you recall that?

20 A Yes.

21 Q Is that typically how you function as the
22 director of operations for Liberty's Arizona division; you
23 work with your operators and engineers and other people to
24 run the company?

25 A Absolutely. I shouldn't be -- you know, as

1 director that doesn't mean that I operate in a vacuum.
2 You need to be listening to the other people with
3 expertise in your company, certainly.

4 Q Because that would allow somebody who only has a
5 CPA to officially run water and sewer companies?

6 A Yes, that certainly helps.

7 ALJ RODDA: Oh, you are the CPA?

8 THE WITNESS: Yes, I am.

9 MR. SHAPIRO: But he is not a lawyer.

10 THE WITNESS: No.

11 MR. SHAPIRO: That is all we have, Judge.

12 Mr. Bourassa will come and can answer the question
13 regarding Chaparral City, but as their counsel, it did
14 have the exact same type of administrative fee. That is
15 where Mr. Bourassa and I started that form, was in that
16 case. And we are happy to bring a copy in if need be.

17 We don't have any other question, though.

18 ALJ RODDA: Does any other party, Ms. Mitchell --

19 MS. MITCHELL: I do have just one other brief one
20 on the low-income tariff issue.

21

22 RECROSS-EXAMINATION

23

24 Q (BY MS. MITCHELL) Mr. Sorensen, in your
25 rejoinder, I believe that you took issue with the Staff

1 recommendation that there would be a cap on the number of
2 participants.

3 Do you recall that?

4 A. I don't recall that. Could you point me --

5 Q. All right. Hold on for a second.

6 ALJ RODDA: I thought he agreed to it.

7 THE WITNESS: I thought I agreed to it.

8 MS. MITCHELL: Maybe I misread.

9 THE WITNESS: I thought I did. Can you point
10 me --

11 Q. (BY MS. MITCHELL) Maybe I misread.

12 A. Can you point me to the section?

13 Q. I will turn -- just give me a second.

14 MR. SHAPIRO: It's on page 5 of his rejoinder,
15 Ms. Mitchell.

16 MS. MITCHELL: Thank you. It was late last
17 night. Okay.

18 THE WITNESS: Yes, line 3 through 6, I think.

19 Q. (BY MR. SHAPIRO) All right. I'm sorry. I did
20 misread it. So I don't have any other questions.

21 I just wanted to point out that the Commission
22 did allow a cap in a rate case where a low-income tariff
23 for water company was introduced, and that was
24 Arizona-American Docket 07-0209.

25 A. And, as I stated earlier in response to some

1 questions, these things are new. So I think maybe that is
2 perhaps a prudent way of proceeding. You put a cap on it,
3 and in the context of our next rate case we may reexamine
4 that. And maybe, you know, there will be a better way of
5 doing it.

6 Q Does the company -- just one follow-up question
7 on this. This is more of an assistance for you.

8 Do you know if the company works with -- I can't
9 remember the name of the group, but there are a number of
10 organizations that work with low-income clients as a way
11 to identify who those people are.

12 Does the company have some outreach?

13 A I believe we do. I think I know the group you
14 are talking about. The name escapes me.

15 Yes, we do. I think oftentimes we refer people
16 to some of those groups. If in discussions with our
17 customers they are having difficulty in making their
18 payment obligations, we will refer them over. So
19 certainly that would make sense to work with those types
20 of groups.

21 MS. MITCHELL: That is all I have. Thank you.

22 ALJ RODDA: Mr. Pozefsky, did you have anything?

23 MR. POZEFSKY: No.

24

25

1 FURTHER EXAMINATION

2

3 Q. (BY ALJ RODDA) Okay. Just as we were talking
4 about low-income and on that page, page 5 of your
5 rejoinder, has Staff recommended what that limit should
6 be?

7 A. As far as the?

8 Q. Number of participants.

9 A. Yes, I believe they did, and I want to say that
10 it was 2,000 on the water side and 750 or so on the
11 wastewater side. It's in Mr. Becker's surrebuttal.

12 I'm sorry. It's in his surrebuttal page 6, line
13 24. It was limited to 2200 water customers and 725
14 wastewater customers, or roughly 30 percent of our
15 customer base for each.

16 Q. Okay. So when you say we did not oppose Staff's
17 recommended participation caps, those were the numbers
18 that you were not opposing?

19 A. Correct.

20 Q. Okay. And then you agree with Staff's
21 recommendation about an annual recertification?

22 A. No. I agree and think that is a good idea, that
23 you have that. I think they call it like an affirmative
24 certification rather than a passive one, where you have
25 the customer reaffirming each year under affidavit that

1 they qualify for that program.

2 Q And it seems like, just from the number of
3 comments that we have received in this case and from the
4 tenor of the comments today, that this area -- there must
5 be some customer communication with each other. I'm just
6 interested in how the company would inform customers of
7 the availability of the low-income.

8 Do you know how that would happen?

9 A I don't know if Staff has some sort of written
10 letter, notification, or description that they would want
11 to see, but I would think that certainly it would want to
12 go on our Web site. It would certainly be something that
13 I would imagine would be mailed out to our customer base
14 as well as to let them know about it. And there probably
15 should be some sort of a notification when we have a new
16 customer establishment, that they be made aware of that in
17 some manner as well.

18 Q Okay. And you have the facilities wherever, in
19 Avondale or wherever you are essentially located, to
20 handle customer requests and training?

21 A Yes, we do, but we also have facilities there in
22 Rio Rico as well, customer service facilities as well as
23 our operational facilities in Rio Rico. So we would train
24 them, and they're bilingual to address all of our
25 customers.

1 And so if they can't help or if they have other
2 questions, we would certainly have additional resources up
3 in Avondale to address these as well.

4 ALJ RODDA: Okay. All right. Thank you.

5 Anything further, Mr. Shapiro?

6 MR. SHAPIRO: Yes. Just one quick question.

7

8

REDIRECT EXAMINATION

9

10 Q. (BY MR. SHAPIRO) Mr. Sorensen, the company
11 wouldn't have any problem including in the notice of new
12 rates an indication to the customers of the approved
13 availability of the low-income tariff, would it?

14 A. No.

15 Q. Okay.

16 A. No problem at all.

17 ALJ RODDA: Okay. All right. Before I let this
18 witness go, any further questions? I mean, he will be
19 back, but at least for now.

20 All right, Mr. Sorensen. Thank you very much for
21 your testimony.

22 THE WITNESS: Thank you.

23 ALJ RODDA: We will see you again.

24 Let's take our lunch break now, and try to be
25 back here at 1:35 by this clock, so an hour and

1 15 minutes.

2 (Whereupon, a recess was taken from 12:15 p.m.
3 until 1:34 p.m.)

4 ALJ RODDA: Let's go back on the record.

5 Kate, would you swear the witness in?

6

7 THOMAS J. BOURASSA,
8 called as a witness herein, appearing on behalf of the
9 Applicant, having been first duly sworn by the Certified
10 Court Reporter, was examined and testified as follows:

11

12 DIRECT EXAMINATION

13

14 Q. (BY MR. SHAPIRO) Good afternoon, Mr. Bourassa.

15 A. Good afternoon.

16 Q. Would you please go ahead and state your full
17 name and your business address for the record.

18 A. My name is Thomas J. Bourassa. My business
19 address is 139 West Wood Drive, Phoenix, Arizona 85029.

20 Q. And you are self-employed?

21 A. Yes. I am a self-employed certified public
22 accountant primarily engaged in the business of consulting
23 to utility companies preparing rate applications,
24 financing applications, CC&N extension applications, and
25 new CC&Ns, that sort of work.

1 Q. And you have participated as the ratemaking
2 consultant for all of the pending Liberty Water rate
3 cases?

4 A. Yes.

5 Q. Okay. And you have prefiled testimony in all of
6 those cases?

7 A. I have.

8 Q. You should have a number of documents sitting in
9 front of you?

10 A. I do.

11 Q. Okay. Let's go through those two at a time.

12 Do you have your direct testimony, which should
13 be marked as Exhibits A-4 and A-5?

14 A. Yes.

15 Q. And A-4 is Volume 1 on the revenue requirement
16 issues, rate base, income statements, rate design?

17 A. Yes.

18 Q. And Volume 2, or Exhibit A-5, is your cost of
19 capital?

20 A. Yes.

21 Q. Okay. Were both Exhibits A-5 and A-4 prepared by
22 you or under your direct supervision?

23 A. Yes.

24 Q. Do you have any changes to make to those
25 testimonies at this time?

1 A. Well, I'm aware of a couple minor changes to my
2 direct testimony.

3 Q. Which one, Mr. Bourassa?

4 A. A-4 -- Exhibit A-4.

5 Q. Okay. Would you please identify any changes you
6 would like to make?

7 A. I would, if you would just give me a moment.

8 On page 19 of Exhibit A-4 on line 21 where it
9 says "Accordingly, the first six-month surcharge," that
10 should be 12-month surcharge. So replace the word six
11 with 12.

12 On line 24, starting with the sentence "The next
13 six months," replace the word six with 12.

14 ALJ RODDA: Do you have a pen? Can you make
15 those changes on this copy?

16 THE WITNESS: Yes. Can I just put the number 12?

17 ALJ RODDA: You can put the number 12.

18 THE WITNESS: There you go.

19 On page 20, line 16, the first sentence -- in the
20 middle of the sentence but starting with the words "Number
21 of participants for the six-month period," replace that
22 "six" with a 12.

23 And I think that that is all the changes that I'm
24 aware of for my direct testimony, Exhibit A-4.

25 Q. (BY MR. SHAPIRO) How about A-5?

1 A. A-5, there are no changes that I'm aware of.

2 Q. Okay. Next should be A-6 and A-7.

3 A. I have that.

4 Q. Are those true and correct copies of your
5 prefiled rebuttal testimony?

6 A. Yes.

7 Q. And were those prepared by you or under your
8 direct supervision?

9 A. They were.

10 Q. Do you have any changes or corrections to make to
11 Exhibits A-6 or A-7?

12 A. Yes. On A-6 or Exhibit A-6 the title of the
13 testimony says "Rebuttal direct testimony." Eliminate the
14 word direct. I think I just created a brand-new type of
15 testimony.

16 Q. You don't need any more testimonies,
17 Mr. Bourassa.

18 A. So eliminate the word "direct" in the title on or
19 about line 18 and a half. Okay?

20 I also have a minor correction to rebuttal,
21 Exhibit C-2, page 9.

22 Q. I'm sorry. That was rebuttal Schedule C-2?

23 A. Rebuttal Schedule C-2, page 9. In the last
24 column it says --

25 Q. Mr. Bourassa, let me stop you so we are on the

1 same schedule.

2 Adjustments to revenues and expense?

3 A. Yes, for the water division.

4 Q. Thank you.

5 A. Your Honor, are you there?

6 ALJ RODDA: No, but go ahead.

7 THE WITNESS: In the last column it says

8 "Rejoinder LPSCO allocation." That should be rebuttal

9 RRUI allocation.

10 ALJ RODDA: Okay. Sorry.

11 THE WITNESS: That was water division Schedule

12 C-2, page 9.

13 Q. (BY MR. SHAPIRO) Is it the only change to the
14 schedule, Mr. Bourassa, to the title of the column?

15 A. Yes.

16 Q. Okay. So the numbers on that schedule do not
17 change?

18 A. No, no, they do not.

19 Now, similarly for the wastewater division,
20 rebuttal Schedule C2, page 7, again the last column reads
21 "Rejoinder LPSCO allocation," and that is in the title.
22 It should read rebuttal RRUI allocation.

23 There are no other changes to that schedule.

24 Q. How about to Exhibit A-6 at all?

25 A. No other changes that I'm aware of to rebuttal,

1 Exhibit A-6.

2 Q. And what about A-7?

3 A. A-7 there are no changes.

4 Q. Okay. We are almost there. You should have two
5 more in front of you, Exhibits A-8 and A-9.

6 A. Yes, I do.

7 Q. And were both of these also prepared by you or
8 under your direct supervision?

9 A. Yes, they were.

10 Q. Okay. Let's start with A-8.

11 Any changes to Exhibit A-8?

12 A. Yes. On rejoinder Schedule C2, page 9, again the
13 last column in the title it reads "Rejoinder LPSCO
14 allocation." We need to replace LPSCO with RRUI.

15 Similarly for rejoinder Schedule C2 for the
16 wastewater division, the last column replace in the title
17 LPSCO with RRUI.

18 That comprises all the changes to Exhibit A-8;
19 however, I want to make you aware, while I'm not modifying
20 rejoinder C-2 page 9 for the water division or C-2 page 7
21 for the wastewater division at this time, I have found out
22 subsequent to the filing that there was a miscommunication
23 between myself and Mr. Eichler on the amount of the
24 adjustments to the actual cost allocation pool which --
25 and it's my error.

1 So in the second column on both rejoinder
2 Schedule C2, page 9 for the water division and C-2
3 rejoinder Schedule C-2, page 7 for the wastewater
4 division, the adjustment column in our final schedules
5 will be \$454,000 approximately reduction to the actual
6 cost pool. So our final schedule total cost pool will be
7 lowered to about \$4,815,000.

8 That will accordingly reduce further the amounts
9 allocated to Rio Rico by approximately 26- or \$2700 for
10 the water division and about 15- or \$1600 for the
11 wastewater division. I will reflect those in my final
12 schedules.

13 Q. Okay.

14 A. But I wanted to make everyone aware that the
15 company will propose an additional downward adjustment.

16 I will state, as a matter of clarification, that
17 in syncing up, what I should have done in rejoinder with
18 Mr. Eichler's schedule, there were some classifications of
19 adjustments that Staff proposed that we believe were in
20 the wrong categories, and they will be -- the total amount
21 will increase by 450,000, but you may see one or two of
22 these categories actually increase and others in terms of
23 a positive amount and others increase in terms of a
24 downward adjustment. We are only trying there to make
25 sure that we match up with the procedure expense

1 classifications as listed here.

2 Okay. So while I'm not going to make the change
3 now because it will permeate through all the schedules, I
4 will state that I will reflect that in the rejoinder
5 schedules.

6 Q. Okay. What about Exhibit A-9, any changes?

7 A. No.

8 Q. If I asked you the same questions today --

9 MS. MITCHELL: Excuse me, Mr. Shapiro. Can I
10 interrupt for a moment about the change in Mr. Bourassa's
11 rejoinder testimony?

12 On page 4, at least in my copy --

13 MR. SHAPIRO: Page 4 of the testimony?

14 MS. MITCHELL: Right, page 4 of the testimony.

15 ALJ RODDA: Of which one?

16 MS. MITCHELL: The rejoinder.

17 ALJ RODDA: But there are two rejoinders.

18 MS. MITCHELL: The rate base and revenue
19 requirement, on line 15, there is a little -- is that a
20 little less than three? What is that? I guess I could
21 ask him, that is not a mistake, though?

22 THE WITNESS: No. No.

23 MS. MITCHELL: Okay.

24 THE WITNESS: I assume you are speaking to on
25 line 15 right after the word company?

1 MS. MITCHELL: Right. I was confused.

2 THE WITNESS: That refers to the rounding
3 difference.

4 MS. MITCHELL: Okay. Okay. I'm sorry.

5 THE WITNESS: What I wanted to make sure is that
6 the difference between Staff and the company with respect
7 to the plant is merely a rounding difference; it isn't any
8 major dispute.

9 MS. MITCHELL: I thought it was a new symbol or
10 something or some field.

11 THE WITNESS: Perhaps I should have used the
12 words "less than" rather than the symbol less than. I'm
13 an accountant. We are into numbers and math. So I
14 assumed everybody understood what that meant. I
15 apologize.

16 MR. SHAPIRO: Anything else, Ms. Mitchell?

17 ALJ RODDA: I guess not.

18 MS. MITCHELL: Oh, no. I'm done.

19 MR. SHAPIRO: You are very welcome.

20 Q. (BY MR. SHAPIRO) Mr. Bourassa, if I were to ask
21 you the same questions today as you were asked in Exhibits
22 A-4, A-5, A-6, A-7, A-8, and A-9, would your answers be
23 materially the same today?

24 A. Yes.

25 MR. SHAPIRO: Your Honor, with that I will move

1 Exhibits A-4, 5, 6, 7, 8, and 9.

2 ALJ RODDA: Any objections to A-4, 5, 6, 7, 8, or
3 9?

4 MS. MITCHELL: No.

5 MR. POZEFSKY: No.

6 ALJ RODDA: All right. Then A-4, 5, 6, 7, 8, and
7 9 are admitted.

8 (Exhibits A-4, A-5, A-6, A-7, A-8, and A-9 were
9 admitted into evidence.)

10 Q. (BY MR. SHAPIRO) Mr. Bourassa, just to follow up
11 on one thing that came up this morning, you were the
12 ratemaking consultant witness in the last Chaparral City
13 rate case?

14 A. I was.

15 Q. And that was a case that was decided last fall,
16 2009?

17 A. Yes.

18 Q. Okay. You proposed on behalf of Chaparral City
19 in that case a form of low-income tariff?

20 A. Yes.

21 Q. And the Commission approved that form of
22 low-income tariff without changes; correct?

23 A. Yes.

24 Q. Okay. Just briefly, the model upon which
25 Chaparral City's low-income tariff was based, where did

1 that come from?

2 A. That came from an American States-owned company,
3 Golden State Water Company. They have had a low-income
4 tariff for Golden State Water for many years. So this was
5 modeled off the Golden State Water low-income tariff.

6 Q. And was the low-income tariff proposed in this
7 case for Rio Rico modeled after that same tariff?

8 A. Yes.

9 Q. Same with the one you proposed in LPSCO and Bella
10 Vista and the other pending rate cases for Liberty
11 companies?

12 A. Yes.

13 Q. And did the low-income tariff approved by the
14 Commission for Chaparral City contain an administrative
15 fee?

16 A. Yes.

17 Q. And was it different in any way than the
18 administrative fee that you proposed here?

19 A. No. It was 10 percent.

20 Q. In fact, the only difference between the
21 low-income tariff proposed in this case and the one
22 approved for Chaparral City is the qualification
23 threshold; correct?

24 A. Yes.

25 Q. This one uses the federal poverty level and that

1 one used 150 percent of that limit?

2 A. That's correct.

3 Q. How was the 10 percent administrative fee
4 determined for the Chaparral City tariff, LPSCO tariff,
5 and Rio Rico, since you have testified they are all the
6 same?

7 A. Well, it's to cover the carrying cost of the
8 dollars that are foregone by the discounts provided to
9 other participants in the program, plus a small
10 administrative fee of, say, you know, 2 to 4 percent,
11 something like that. It depends on what you want to apply
12 as the dollar cost per month.

13 Now, the reason for that is that the program runs
14 for 12 months before any recovery takes place and any
15 computation of the surcharge. So it's only fair that the
16 company recover the cost of money.

17 Q. And the factor used to determine the cost of
18 money is the weighted average cost of capital?

19 A. Well, in the Chaparral City case I think that was
20 the idea.

21 Ultimately, if we were to use the weighted
22 average cost of capital in this case you would vary from
23 as low as 7.9 percent for RUCO and up to 11.4 percent for
24 the company. And I can't say that 11.7 would be -- I
25 mean, that 10 percent would adequate to cover a WACC of

1 11.7.

2 Q So it's intended to cover some administrative
3 burden and the carrying cost of money essentially?

4 A Essentially.

5 Q Do you think that the company will be made whole
6 at that 10 percent level completely?

7 A I think that that depends. The reason -- and --
8 but I think it's likely that the company will
9 approximately collect, and it will be a wash.

10 Again, Chaparral City's sister company, Golden
11 State, has had experience with this, and based upon my
12 discussions with those at American States Water, that that
13 is an appropriate fee. And the California Commission has
14 obviously monitored it and deems it appropriate.

15 Q That is one the difficulties that both
16 Mr. Sorensen and Mr. Becker have pointed out, is that
17 these are very new for water and sewer companies in
18 Arizona; right?

19 A In Arizona, yes, for water and wastewater
20 utilities. Now, electric and gas utilities have had
21 low-income tariffs for a long time.

22 Q Strictly from a revenue standpoint, a low-income
23 tariff is not something that benefits the utility and its
24 shareholders, is it? It postpones a portion of the
25 revenue requirement, does it not?

1 A. It does. It's not intended in any way for the
2 company or the shareholder to benefit from the program.
3 It's there for the benefit of those individuals that are
4 unable to pay their regular water and sewer rates.

5 MR. SHAPIRO: That is all we have. We will
6 tender Mr. Bourassa for cross-examination.

7 ALJ RODDA: Thank you, Mr. Shapiro.

8 Mr. Pozefsky?

9 MR. POZEFSKY: Thank you.

10

11

CROSS-EXAMINATION

12

13 Q. (BY MR. POZEFSKY) Good afternoon, Mr. Bourassa.

14 A. Good afternoon.

15 Q. One of the things I want to start by asking is,
16 we didn't get your -- the company's rejoinder testimony
17 until a quarter of 2:00 yesterday. I'm not being critical
18 because that was when it was due. So there is no problem
19 there, but you can understand that I haven't had a chance
20 to really go through it and digest it.

21 So I want to ask you generally, in your rejoinder
22 position that the company has come up with, has the
23 company gotten any closer to RUCO on the disputed issues,
24 on any issue in its rejoinder case?

25 It sounds like we did a little on the cost

1 allocation based not so much on methodology but on the
2 numbers. It sounds like you deducted more.

3 Is there anything else?

4 A. I think in -- as I recall, in the company's
5 rebuttal I pointed out some oversight or some
6 miscalculations of accumulated depreciation, and I
7 contacted RUCO to find out if retirements were being
8 properly accounted for in the accumulated depreciation.
9 And I believe that Mr. Coley has corrected what I thought
10 were the cause of the differences between the company and
11 RUCO. And consequently we are in agreement now in this
12 stage with respect to that issue.

13 I think that the company adopted a few of RUCO's
14 proposed adjustments, one of them being an out-of-period
15 adjustment for about \$15,000. If you will give me a
16 moment, I will have to refresh my memory to see what
17 exactly that was for.

18 Yes, that related to contractual services for
19 14,477. I believe that it was RUCO that proposed that
20 adjustment. I think all the parties have adopted it. If
21 I am incorrect, it may have been Staff. Irrespective of
22 who recommended it, the company adopted it, and I think
23 all the parties are in agreement.

24 The company also adopted in rebuttal the bad debt
25 expense annualization, so that hasn't changed.

1 The company does ratemaking in disagreement with
2 RUCO on the revenue annualization adjustment, on the
3 revenue and expense, the income statement issues, and the
4 company is still in disagreement with RUCO on the
5 accumulated deferred income tax amount.

6 *Q.* Which is the perfect segue for the accumulated
7 deferred income tax questions.

8 *A.* I'm glad I could be helpful.

9 MR. SHAPIRO: Is there any perfect segue into
10 DITs, Dan?

11 *Q.* (BY MR. POZEFSKY) Let's talk about deferred
12 income tax.

13 *A.* Love it.

14 *Q.* Let's start with the water division. The
15 adjustment that the company is recommending, and going
16 from your rebuttal position, is 314,965; is that correct?
17 Is that where you are at? I'm in your rebuttal, page 6,
18 line 13.

19 *A.* Yes. I don't believe that number has changed
20 from the company's rebuttal filing to its rejoinder
21 filing.

22 *Q.* And as I walk you through this, Mr. Bourassa, I
23 won't play any hide the ball. I will give you where I'm
24 getting everything I ask and let you know that in advance.

25 This recommendation would be what is classified

1 as an asset; correct?

2 ALJ RODDA: I'm sorry. Say that again.

3 Q. (BY MR. POZEFSKY) This would be an asset;
4 correct?

5 A. Yes. This is a net deferred income tax --
6 deferred income tax asset.

7 Q. And as an asset it will actually be added to rate
8 base; correct?

9 A. Correct.

10 Q. And for the wastewater, your rebuttal position is
11 an adjustment of \$130,973? Again, I'm at your rebuttal
12 page 20 at line 23.

13 A. Correct. And again the company's position on
14 that 130,973 has not changed from its rebuttal filing to
15 its rejoinder filing.

16 Q. And likewise that is an asset, and as an asset it
17 too would be added to rate base; correct?

18 A. Correct.

19 Q. And so we are clear, hypothetically, if the
20 result of your analysis would have been a deferred income
21 tax liability or if you consider RUCO's analysis, which
22 does result in a deferred income tax liability, that would
23 be a deduction to rate base; correct?

24 A. Deferred income tax -- net deferred income tax
25 liabilities are a reduction to rate base or reduction in

1 rate base, yes.

2 Q I'm starting out on a definitional track here,
3 just so we are all clear on what we are talking about.

4 Accumulated deferred income tax is the
5 accumulation of each year of the deferred income tax
6 expense, correct, or deferred income tax amount?

7 A I would disagree with the word "accumulation."

8 Deferred income taxes arise from a timing
9 differences between book and tax.

10 Q Okay. But if you add them from year to year up,
11 you would get an accumulated deferred income tax?

12 A If you -- if you accumulate the timing
13 difference, the dollar amount of timing differences from
14 year to year -- is that the right way to say it -- the
15 timing difference from year to year will accumulate to
16 deferred income taxes. Whether some of those timing
17 differences will zero out during the interim period or
18 other timing difference will increase, the bottom line is
19 that the point in time when you measure it, you are
20 measuring the timing differences to that point in time.

21 Q And when we talk about these timing differences,
22 Mr. Bourassa, the timing difference is primarily due to
23 the fact that the straight-line depreciation is used for
24 ratemaking purposes, whereas the accelerated depreciation
25 is used for income tax purposes; correct?

1 A. The timing difference arises from any book
2 depreciation versus tax depreciation differences. There
3 may be instances where the book depreciation -- allowed
4 book depreciation -- or tax depreciation deduction is less
5 than the book.

6 There are also instances, like, for example,
7 changes to the tax laws, for example, with this special
8 depreciation allowance, which was part of the Recovery
9 Act, the 2008 Recovery Act, which allowed additional
10 depreciation to be taken over and above any tax
11 depreciation for that first year that that plant was
12 placed in service.

13 So it can arise from a number of factors,
14 primarily, again, relating to these book and tax timing
15 differences, in terms of the deductions that are allowed
16 for tax and the deductions that are included in the
17 computation of income tax for ratemaking purposes. That
18 is why we have this as part of rate base.

19 Q. Well, okay. Let me hand out an exhibit.

20 ALJ RODDA: Do you need some water?

21 THE WITNESS: I have some.

22 Q. (BY MR. POZEFSKY) You should have before you a
23 copy of the Commission decision in Black Mountain Sewer
24 Corporation; correct?

25 A. Yes.

1 Q And that is Decision No. 69164, which was
2 docketed on December 5th, 2006; correct?

3 A Yes.

4 Q And that is the last Black Mountain decision; is
5 that correct?

6 A No -- oh, decision, yes. Black Mountain has
7 subsequently filed a rate case, but that decision has not
8 been issued yet.

9 Q And could you turn to page 5? There are two
10 sentences. Could you read those starting at page 13?

11 ALJ RODDA: Double line 13?

12 Q (BY MR. POZEFSKY) I'm sorry, line 13 at page 5.

13 A Yes. "Accumulated deferred income taxes reflect
14 a timing difference between when income taxes are
15 calculated for ratemaking purposes and the actual federal
16 and state income taxes paid by the company."

17 Q And then next line, please.

18 A The primary -- "The timing difference is
19 primarily due to the fact that straight-line depreciation
20 is used for ratemaking purposes whereas accelerated
21 depreciation is used for income tax reporting purposes."

22 Q Again, Mr. Bourassa, I'm not trying to trick you
23 up here. I'm just trying to get down to the definition.

24 Do you have any reason to disagree with either of
25 those two sentences? Do they still hold true today?

1 A. I would agree that it's one of the primary
2 reasons for deferred income taxes. But again, tax law
3 changes, like these bonus depreciation provisions that are
4 allowed in the tax law, can also contribute heavily to
5 those timing differences.

6 So I wouldn't -- I would characterize it as I
7 don't necessarily agree that it's one of the primary
8 reasons.

9 Q. Let me also refer you to Mr. Coley's testimony.
10 You should have a copy of his direct testimony before you;
11 is that correct?

12 A. I have a copy in front of me.

13 Q. And if you could, could you turn to page 12?

14 MR. SHAPIRO: Which one?

15 MR. POZEFSKY: Direct testimony, page 12.

16 MR. SHAPIRO: Thank you.

17 Q. (BY MR. POZEFSKY) Are you there, Mr. Bourassa?

18 A. Yes.

19 Q. You know, this is a chart Mr. Coley prepared.
20 It's an illustrative chart of how it works. I'm not
21 asking you to necessarily verify the accuracy of this
22 chart. But I did want to ask you a few concepts in
23 general about this chart and ask you if you agree with
24 them.

25 Would you agree with me, Mr. Bourassa, that

1 typically in the case of assets, new assets, in the
2 beginning years that the accelerated depreciation results
3 in a greater amount of depreciation expense in a
4 straight-line depreciation?

5 A. Yes. That is why it's called accelerated
6 depreciation.

7 Q. Amazingly, that was my next question: Isn't that
8 why it's called accelerated?

9 A. Again, I'm happy to help you out wherever I can.

10 Q. Thank you.

11 If we just look at accumulated deferred income
12 tax in these years where the accelerated exceeds the
13 straight-line, then what you would get as far as a
14 deferred income tax would actually be a liability.

15 Wouldn't you agree?

16 A. Could you repeat the question?

17 Q. Sure. If we just were to consider the
18 depreciation -- excuse me -- the deferred income taxes in
19 the earlier years, in the years where the accelerated
20 depreciation actually exceeds the straight-line
21 depreciation and we do get a deferral, in those years the
22 deferral would be a liability.

23 Isn't that a fact? Would you agree?

24 A. Yes.

25 Q. And on the balance sheet -- on the balance sheet

1 where you do have a liability, the deferred income tax
2 would actually be a credit on the balance sheet.

3 Would that be correct?

4 A. For what year?

5 Q. Where there is a liability on the balance sheet,
6 when you have the debt being income tax expense, the
7 deferred income tax, a credit with the income tax
8 payables, isn't that how the entry would look?

9 A. I'm not sure I followed you. Could you repeat
10 that or restate it?

11 Q. Sure. I'm just asking you to identify how the
12 actual accounting entry would look where you have a
13 liability.

14 Wouldn't you have as a credit the deferred income
15 tax?

16 A. Right.

17 Q. And the same column would be income tax payable
18 and then on the other side you would have as debt the
19 income tax expense.

20 Wouldn't that be fair?

21 A. What gives rise to the deferred income tax on the
22 balance sheet is that the company is paying less in tax
23 because of the accelerated depreciation for tax purposes
24 than it's deducting for book purposes and therefore having
25 a different computed book income tax. So it gives rise to

1 a deferred income tax liability, which is a credit in the
2 balance sheet.

3 Q And in looking at the same asset over time, okay,
4 again, getting away from the newer years until, as this
5 asset actually ages overtime, isn't it true that all
6 things being equal the reverse happens, the accelerated
7 depreciation for tax purposes decreases overtime?

8 A For a specific asset?

9 Q Yes.

10 A Yes, that is true.

11 Q Would you agree with me that as a general
12 statement -- sure, you were here this morning when
13 Mr. Sorensen was responding to the questions I was
14 asking -- Rio Rico hasn't had any replacement plant since
15 its last rate case?

16 A Yes. I think if you looked at the company's B-2
17 plant schedules, you will find that there has been a
18 substantial amount of plant that has been added since the
19 end of the last test year for both divisions.

20 I have no reason to dispute testimony of
21 Mr. Sorensen.

22 Q And as this plant continues to get older, would
23 you agree with me that with respect to the individual
24 amount of assets that we are looking at, at some point the
25 book depreciation amount will start to exceed the

1 accelerated amount; correct?

2 MR. SHAPIRO: When you say the individual assets
3 we are looking at, what assets are you looking at in that
4 question, Mr. Pozefsky?

5 Q (BY MR. POZEFSKY) I was using the example here,
6 the illustrated example.

7 If we are reconsidering just the plant, a piece
8 of plant in a moment of time, in fact, no particular
9 piece -- I'm just talking in generalities -- isn't it true
10 that over time the book depreciation amount will start to
11 exceed the accelerated amount?

12 A. Assuming that the accelerated depreciation or the
13 tax depreciation amount, accelerated or otherwise, was
14 greater than the book depreciation, you would have
15 deferred tax liability, which will decrease over time as
16 that asset ages.

17 Q And isn't it true, Mr. Bourassa, that the greater
18 the amount of the depreciation the less amount of income?

19 MR. SHAPIRO: Okay. Could we have that question
20 read back?

21 (Requested portion of the record read.)

22 THE WITNESS: Book or tax?

23 Q (BY MR. POZEFSKY) The greater amount of
24 depreciation in the tax system will create a lesser amount
25 of income in the tax system; is that correct?

1 A. Greater amount of tax depreciation will reduce
2 the taxable income, correct.

3 Q. Yes, which typically would mean a lower amount of
4 income tax that is paid than what is expensed, at least at
5 the beginning; is that correct?

6 A. It will lead to a timing difference between what
7 was paid for tax and what was reflected for book purposes.

8 Q. I'm sorry. Were you finished?

9 A. Go ahead.

10 Q. Depreciation is a noncash item; isn't that
11 correct?

12 A. Yes.

13 Q. And that means that the more -- the greater the
14 depreciation, the greater that the company's cash flow
15 will be, all other things being equal; correct?

16 A. All other things being equal, the greater amount
17 of depreciation will mean more cash flow.

18 Q. And I think from what I heard -- you were
19 alluding to this next point -- but currently isn't it true
20 that the company can even record more depreciation because
21 of the bonus depreciation that the company is permitted to
22 take or record?

23 ALJ RODDA: Do you mean comparing the tax and the
24 ratemaking? Maybe you can restate your question. I'm not
25 sure I understood your question.

1 Q (BY MR. POZEFSKY) Accelerated tax depreciation
2 will give you a greater tax flow than book depreciation.
3 That is what I'm talking about.

4 Right now the point I'm getting at, Mr. Bourassa,
5 is that, in fact, the company can even record more -- can
6 record more taxable bonus depreciation because of the
7 government's Recovery Act. Because of the government's
8 Recovery Act -- let me be clear -- the company can now
9 even record more taxable bonus depreciation; isn't that a
10 fact?

11 MR. SHAPIRO: I'm sorry. When could the company
12 do that? Mr. Pozefsky, are you suggesting in this rate
13 case or in the future?

14 Q (BY MR. POZEFSKY) Well, let's talk about the
15 test year, in 2008.

16 A The bonus depreciation is only allowed in the
17 first year that plant or that asset is placed in service.
18 If you don't elect to take it, it is gone. All right?

19 Just because the company can take bonus
20 depreciation, doesn't necessarily mean that its cash
21 flows -- bonus depreciation for tax purposes -- that its
22 cash flows are higher to the extent that it exceeds their
23 taxable income.

24 I mean, if I have a net income of 100,000 and I
25 take a bonus depreciation of 200,000, okay, it only

1 reduces my taxable income down to zero, not to a negative
2 100,000. In other words, the government doesn't pay me
3 back for that negative \$100,000 of tax loss. That becomes
4 a deferred tax asset because the company -- it's basically
5 unused bonus depreciation.

6 Now, the situation is the company, unless it took
7 the bonus depreciation, it would forego it; it would
8 forfeit it forever. And during the test year the company
9 took more bonus depreciation than there was taxable income
10 to offset.

11 So I termed it in my testimony as unused
12 depreciation. It becomes now I carried forward what the
13 company used to offset future taxable income. Therefore
14 it is a tax asset today.

15 Now, I think I also showed in my rebuttal that if
16 the company had not taken bonus depreciation and not even
17 had the net operating loss component in its deferred
18 income tax calculation, that the deferred tax asset would
19 be even higher.

20 Now, this is because if -- all the parties were
21 giving the tax depreciation reports for the company. Not
22 all of the assets -- some of those assets are on
23 straight-line 20-year. Some are on double-declining
24 balance 25-year. So for some assets the tax basis may be
25 more or less than the book basis. That is why we don't

1 see this -- if the company had taken accelerated
2 depreciation on all of its plant, then I would agree that
3 it would have been a higher likelihood of a net deferred
4 liability.

5 If you look at this chart here, this assumes that
6 you are taking book-accelerated depreciation or gives you
7 the impression that all plant being depreciated is using
8 the accelerated tax rate, but that is not true in the case
9 of the company. There are some assets that are actually
10 being depreciated for tax purposes at a lower rate than it
11 is for book purposes.

12 And there are others that are accelerated, just
13 as you see in Mr. Coley's testimony at page 12 that do.
14 The end result is that from the perspective of the fixed
15 aspect component of the tax computation, that you see on
16 B-2, page 6 of the company's schedules, both -- in this
17 case I'm referring to my rejoinder Schedule B-2, page 6 --
18 there is a slight tax asset where normally if I had
19 used -- if the company had used accumulated depreciation
20 and it was available to the company to use it, that would
21 have been a deferred tax liability component, not a
22 deferred tax asset component. It's very small, which
23 means book and tax up to that point in time are running
24 almost even, almost zero, for that component of the
25 deferred tax computation.

1 Q So let me ask you --

2 A So what you are doing is creating the
3 impression -- and I don't disagree -- that if a company
4 uses -- has enough assets and accelerated depreciation on
5 those assets, they can accumulate deferred tax
6 liabilities, which will overwhelm the deferred tax assets,
7 those assets that are being depreciated at a rate less
8 than book.

9 That is why we go through this process of
10 determining the book and tax timing differences in total
11 and applying the appropriate tax rate to it to determine
12 whether it's a liability component or an asset component.
13 That is the way I have specified it here on B-2, page 6 of
14 the company's filing.

15 If you look at Black Mountain, LPSCO, I think
16 even Bella Vista, I believe the fixed asset components --
17 let me just bring everybody to that page.

18 If you look at rejoinder Schedule B-2, page 6 for
19 the water division -- and by the way, I have done this,
20 the same, in all of the currently pending cases before the
21 Commission, and by the way did this in the prior Black
22 Mountain case -- my calculations are very similar with the
23 same or similar components.

24 If you look on line 9 of rejoinder schedule B-2,
25 page 6 for the water division, you see that I compute the

1 adjusted book value of the fixed assets, where I take into
2 account the gross plant in service, less the book
3 depreciation recorded to date, less the contributions in
4 aid of construction, because I don't have a basis in -- I
5 don't have a tax basis in contributed plant typically. In
6 the past there was some tax laws that I couldn't make that
7 statement. And, in fact, goes to my reconciliation here.

8 In other words, back in 1996 the tax law changed,
9 and in contributions were treated as taxable income. And
10 because it was treated as taxable income, you had to treat
11 it as a -- you had a basis in it for tax purposes. After
12 that point in time it was no longer considered taxable
13 income, and because the company didn't pay any tax on it,
14 now you didn't have any tax basis in it.

15 So as you can see from line 9 on schedule B-2,
16 page 6, we have a net adjusted book value of fixed assets
17 of \$11,600,539. We have a reconciled tax value basis of
18 \$11,648,936, which means that that timing difference is
19 equal to about \$48,000. Times the expected tax rate it
20 translates to a \$18,681 tax asset.

21 Okay. Again, depending on the particular
22 circumstances for each company that we deal with -- Black
23 Mountain this component might have been a deferred tax
24 liability because its adjusted book value was greater than
25 its tax value, so it would be a deferred tax liability

1 component.

2 If you look at the Black Mountain case I believe
3 you will find that it is a liability component. If you
4 look at LPSCO I believe it's a liability component. And I
5 would also guess that -- well, I'm not going to guess that
6 for Bella Vista because I'm not quite sure.

7 ALJ RODDA: Before you go on, can I?

8 MR. POZEFSKY: Please.

9 ALJ RODDA: If you did this calculation every
10 year, would that number change?

11 THE WITNESS: Depending on -- yes, depending on
12 the circumstances the amount of tax depreciation that
13 might have been taken compared to the book depreciation
14 that we had been taking, the amount of contributions you
15 might have received, yes, it's going to change every year.

16 ALJ RODDA: So in this case because we happen to
17 look at the test year and it was an asset in your
18 calculation, that is going to be an asset for
19 ratemaking -- to set rates on until the next rate case?

20 THE WITNESS: Well, yes, it will be an asset for
21 ratemaking purposes, but we are also using the book values
22 of plant to set rate base and the contributions. So we
23 are taking, as we do in Arizona -- we use that historical
24 test year -- so everything is matched up at that point in
25 time.

1 So things could change. Rate base could go up.
2 It could down. That deferred tax asset could go up and
3 down. I mean, in an ideal world we want the rate base to
4 remain the same and we have the same level of income every
5 year. It just doesn't -- I mean, we are here to set
6 rates, and this is the test year that we are using.

7 So everything is synced up, as it should be. So
8 we are doing the proper things to set rates.

9 Now, I will give you an example. Chaparral City
10 Water Company had a net deferred tax liability in its last
11 rate case, the most recent case, which I believe was based
12 on a 2006 test year. Now, of course, we removed for the
13 purpose of that case the goodwill component because the
14 goodwill was not in rate base so it accordingly was taken
15 out of deferred tax.

16 If you -- I just recently reviewed the auditor
17 reports for Chaparral City for '08, and if you remove the
18 goodwill component, Chaparral City Water Company, if you
19 use the test year for '08, you would have had a net
20 deferred tax asset of \$300,000. When in the '06 test year
21 I think it was about \$900,000 or \$1 million tax liability.

22 So it all depends on the circumstances, and that
23 is why we true it up in the rate case so everything
24 matches up. And this is why I disagree with Mr. Coley's
25 methodology of taking the parent's number and allocating

1 it down to the company because it's based on a 2005 stock
2 purchase price; it's not even related to the assets.

3 A stock purchase price of the company compared to
4 the 2008 total investment value of the parent company,
5 that is far removed from any -- we talked about the
6 central office cost allocation and trying to rationally
7 systematically allocate that. There is nothing rationale
8 or systematic about that kind of an allocation. Because
9 it's using an '05 number, it's a stock market purchase
10 number compared to an '08 total asset base, in order to
11 allocate that.

12 Plus the fact that each one of the entities, as I
13 explained in this rejoinder, over the years their assets
14 bases have changed, their book value of accumulated
15 depreciation has changed. Their tax basis has changed.
16 And, you know, until you look at it at the proper point in
17 time, you can't do that sort of allocation.

18 Now, I might also add that this is exactly why
19 the Black Mountain Decision 69164 was exactly right when
20 it said on page 6, lines 7 through 11, "Whether other
21 utilities report net deferred tax liabilities is not a
22 controlling factor in determining whether Black Mountain
23 Sewer Company should have a net asset or liability in this
24 case. Black Mountain Sewer Company's ultimate parent,
25 API, controls myriad companies and the fact that its

1 annual report reflects a net deferred tax liability is not
2 necessarily indicative of whether its individual
3 subsidiaries have a net liability or asset on their
4 respective books."

5 MR. POZEFSKY: Okay. Am I clear?

6 ALJ RODDA: I'm sorry. Go ahead, Mr. Pozefsky.
7 I'm sorry.

8 MR. POZEFSKY: Thank you, Your Honor.

9 Q. (BY MR. POZEFSKY) There is a lot to digest
10 there, Mr. Bourassa, so I will definitely follow up with
11 some questions.

12 A. Certainly.

13 Q. Are you saying, Mr. Bourassa, that if the book
14 basis is less than the tax basis, then you have a deferred
15 income tax asset?

16 A. If the book basis is less than the tax basis,
17 then you have a deferred tax asset.

18 Q. Is that what you are saying; yes?

19 A. Yes.

20 Q. And are you saying that if the tax basis is
21 actually less than the book basis, then what you have is a
22 deferred income tax liability?

23 A. Yes.

24 Q. And with respect to your rejoinder Schedule B-2,
25 you talked about the AIAC.

1 How can you get a deferred tax asset when you
2 have no tax basis in AIAC?

3 A. Well, I thought I explained this in my testimony,
4 but let me try to explain it again.

5 When we compute income taxes for ratemaking
6 purposes, we actually include depreciation on AIAC-funded
7 plant as a deduction to the income tax -- or the taxable
8 income for book purposes. So our income tax that we set
9 for ratemaking purposes and for book purposes is less than
10 that which is going to occur for tax purposes because for
11 tax purposes the company has no basis in AIAC-funded plant
12 until it refunds or to the extent it hasn't refunded that
13 AIAC. Once the company refunds a portion of the AIAC, it
14 gets a tax basis in that plant. Okay?

15 So AIAC creates a net deferred tax asset because
16 the company is paying higher income taxes now that aren't
17 being reflected in its rates now.

18 Q. AIAC is developer-supplied capital.

19 Would you agree with that?

20 A. It could be from a developer, an individual, but
21 it is a contribution -- be careful with the word
22 contribution, but it's a contribution to capital of a
23 company not from the shareholder.

24 Q. And the asset that is created, regardless of how
25 it's created, but that asset that is created from the

1 AIAC, that goes into rate base; is that correct?

2 A. That's correct, because, again, as I explained,
3 there is a book tax timing difference.

4 Q. So in the end, the company will be earning a
5 return of noninvestor-supplied capital as a result; is
6 that correct?

7 A. No. The company has had to pay higher income
8 taxes. The company paid the income taxes, okay, on the
9 difference between what it was able to deduct for tax
10 purposes and what it was able to deduct for book purposes.
11 That is what is reflected in rates.

12 So the company isn't earning an asset on a
13 developer -- a return of carrying cost on
14 developer-supplied funds. It's reflecting that book tax
15 timing difference that is to be paid by virtue of the
16 advances.

17 Q. As I said in my opening statement, it's all
18 perspective, isn't it, Mr. Bourassa?

19 I will strike that.

20 Let me ask you, Mr. Bourassa, I thought I heard
21 you say in response to my question a little ago -- correct
22 me if I'm wrong -- with all this investment that
23 Mr. Sorensen had testified to earlier this morning, this
24 new investment, this over \$4 million in investment, it
25 would appear that it would make sense that you would end

1 up with a deferred liability.

2 But is it your testimony that basically you are
3 not ending up with a deferred liability here because of
4 the different rates -- tax rates that this company -- that
5 are specific to this company?

6 MR. SHAPIRO: Let me interpose an objection, if I
7 may, to Mr. Pozefsky's conclusory statement, the company
8 would be expected. I think that is evidence for
9 Mr. Pozefsky, not a question. I don't have an objection
10 to the question without that part.

11 Q. (BY MR. POZEFSKY) I will strike that. That is
12 fair. Let me put it this way.

13 With all this investment that Mr. Sorensen
14 testified today, the over \$4 million of investment, is it
15 ultimately your conclusion that there is an asset? Is
16 that pretty much because of the difference in depreciation
17 rates that are specific to this company?

18 A. It is due to the facts and circumstances specific
19 to this company that relate to the tax depreciation that
20 were employed on that \$4 million of plant and the book
21 depreciation rates, which were employed on that \$4 million
22 of plant, some of which may have been accelerated, some of
23 which may have been straight-lined.

24 In this case there is a small net difference, I
25 would argue, between the book and tax on that -- on the

1 fixed asset component of this deferred income tax
2 computation.

3 So it's very specific to the circumstances of
4 each utility. That is why we measure it for each utility
5 and do not say because one utility has net deferred tax
6 liability that another utility should similarly have a net
7 deferred tax liability.

8 We look at the specific facts and circumstances
9 of the utility that is going through the rate case, which
10 we have done here.

11 Q And you had talked about RUCO's position in the
12 allocations, so let me ask you a few questions on that.

13 The company's parent is Algonquin Power and
14 Income Fund; is that correct?

15 A I have heard comments today which I believe is
16 true that the company is now Algonquin Power Utility,
17 Corp.

18 Q And you are familiar with Mr. Coley's testimony;
19 correct?

20 A I am.

21 Q And you know he has a copy as Exhibit 1 in his
22 direct testimony of the company's 2008 annual report;
23 correct? Take your time if you need to get there.

24 A That would be exhibit number?

25 Q Exhibit 1.

1 A. Exhibit 1.

2 Q. And you have no reason to disagree on the fourth
3 page into that report that the company's parent reported a
4 \$83,951,000 accumulated deferred income tax liability?

5 A. Yes. If you will look at page -- what is marked
6 as page 77, which is about four pages in, which is a note
7 to the income taxes, which I believe is a more detailed
8 schedule of what makes up the \$83 million deferred tax
9 liability, there are things in there like a foreign
10 exchange hedges, noncapital loss, debt restructuring
11 charges, valuation allowances.

12 I guess that to me some of this, as we did in
13 Chaparral City, would not be -- would not be includable in
14 rate base. Like, for example, goodwill, which is a
15 valuation kind of -- you paid more than book value for an
16 asset, and therefore you have an acquisition, a positive
17 acquisition premium or goodwill. Because this Commission
18 doesn't recognize goodwill or acquisition premiums in rate
19 base typically, we would exclude that component from the
20 deferred income tax computation.

21 This goes to my point, it's not only those sorts
22 of things, but it also reflects this deferred income tax
23 liability of \$83 million. It reflects the timing
24 differences on the various entities -- the property plant
25 equipment at the various entities that Algonquin Power

1 Utility, Corp. owns.

2 There are differences in the ages of the plant.

3 There was difference in the depreciation rates that each
4 one of these entities might have taken advantages for book
5 and tax purposes. Some of these entities maybe allowed
6 different depreciation rates than are allowed at Rio Rico.

7 You also have differences in where they are
8 located. Some are Canadian companies; some are U.S.
9 companies. So there are different tax provisions in those
10 companies.

11 So this is why a simple -- an allocation as
12 suggested by Mr. Coley doesn't comply with FAS-109, or
13 SFAS-109, because it's not rational or consistent with
14 that statement and systematic.

15 Q Let me ask you, Mr. Bourassa, I'm sitting here
16 listening to you. I don't know if I am the only one
17 wondering this, but all of these differences that you are
18 talking about and why it would be improper to use the
19 allocation methodology that Mr. Coley proposed, doesn't
20 the same hold true with the allocation proposal for
21 central office costs? How is that different?

22 A Because the central office costs are based -- the
23 allocation is based on a systematic and rational method of
24 recognizing costs at subsidiaries. And, in fact, I would
25 argue that it follows the guidelines that NARUC sets forth

1 for allocation of common costs.

2 Q. When you say "rational," is that rational in your
3 opinion or is that factually rational?

4 A. That's --

5 Q. Strike that.

6 MS. MITCHELL: No, I liked that question.

7 MR. SHAPIRO: Well, you can answer it,
8 Ms. Mitchell.

9 Q. (BY MR. POZEFSKY) If you skip ahead about five
10 pages into Exhibit 2 of Mr. Coley's direct testimony, here
11 we have a copy of an excerpt from the company's, Rio
12 Rico's, year-end report for the year-end 12/31 of 2008;
13 correct?

14 A. Yes.

15 Q. The last page of that exhibit is a balance sheet
16 for Rio Rico Utilities showing the different balances for
17 the beginning of 2008 and the end of 2008, which is the
18 test year; correct?

19 A. Yes.

20 Q. If you go down to account No. 281, accumulated
21 deferred income tax, the balance at the end of year shows
22 a \$72,985 tax liability; is that correct?

23 A. Yeah, that would -- that is true. That's
24 significantly less than Mr. Coley's \$700,000, but --

25 Q. But a liability nonetheless?

1 A. But let me explain it.

2 Q. Go ahead.

3 A. During the course of my investigation and review
4 and working with Staff to resolve some issues with respect
5 to whether or not Avatar, the prior owner, should have
6 recorded for tax purposes some contributions, which I
7 think I explained in my rebuttal testimony, we gave the
8 benefit of the doubt to the ratepayers to say that -- or
9 in the computation to say that those contributions that
10 Avatar recognized for tax purposes were not correct. And
11 I removed them from the tax value of the company.

12 So this \$72,985 is subsequent to us identifying
13 that Avatar may have incorrectly included in its tax basis
14 of assets plant that was funded with contributions. That
15 was the underlying -- having discovered that, that was the
16 underlying reason for me to conduct my reconciliation of
17 plant and contributions all the way back to 1996.

18 I'm sure that the annual report does not properly
19 reflect this reconciliation and the discovery of those
20 potential errors in the tax basis as a result of Avatar's
21 ownership.

22 Q. Let me ask you, Mr. Bourassa, do you know who
23 prepared the annual report?

24 A. The company.

25 Q. Do you know if it was reviewed and approved by a

1 major accounting firm?

2 A. I have no knowledge.

3 Q. You caught the mistake after the report was
4 prepared and obviously presented; correct?

5 A. No, I think it was Staff. I will give Mr. Becker
6 the credit for questioning the deferred income tax
7 calculation as originally presented by myself in the
8 initial filing. And based upon those questions I
9 conducted a further inquiry as to what was the cause of
10 the difference between book and tax, and it was only as a
11 result of that that I discovered that there might be a
12 problem.

13 I'm not suggesting that Avatar did anything
14 wrong. It may have paid the income taxes on that CIAC and
15 therefore properly recognized it, but I gave the benefit
16 of the doubt that they shouldn't have been, which reduced
17 our deferred tax asset in our initial filing of over
18 1.1 million -- almost \$1.2 million down to about \$445,000
19 in my rebuttal. So I reduced the asset by 6- or \$700,000
20 to the benefit of the ratepayer in the case.

21 Q. Okay. So to cut to the chase, Mr. Bourassa, the
22 balance at the end of the year should be in paren, the
23 number we talked about at the beginning, the \$314,965?

24 A. For the water division my calculation would bring
25 the deferred income tax to the \$314,000 asset figure. It

1 would be a negative as shown on the annual report, not a
2 positive number.

3 Q And what would the balance be at the beginning of
4 the year?

5 A I have not conducted that. I haven't computed
6 the deferred income tax at the end of '07, and none of the
7 parties asked me to do that. I don't know why it's
8 relevant because our test year ends December 31, 2008. So
9 that is why I reconciled through the end of December.

10 Q So in the end -- and then we will leave this --
11 we are talking about a mistake that was what roughly
12 \$400,000 off?

13 A Well, again, I wouldn't necessarily characterize
14 it as a mistake because I don't think that that whole
15 issue has been fully investigated with Avatar.

16 What I have done is I have given the benefit of
17 the doubt to the ratepayers that Avatar should not have
18 recognized a tax basis in CIAC-funded plant from 1997
19 forward. They certainly may have had a basis to do it,
20 but based on the tax laws, I said let's -- which said that
21 a CIAC-funded plant should not be recognized for tax
22 purposes.

23 I mean, if you -- baring any other extenuating
24 circumstances, I don't see why that wouldn't be the actual
25 circumstances. I then deducted it from the tax basis

1 thereby reducing my tax asset by about 6- or \$700,000.

2 Q And that benefit is about \$315,000 more into rate
3 base; correct?

4 A That benefit is going to remove 6- or \$700,000 of
5 tax asset from the company's initial filing. What you are
6 left with for the water division is about \$315,000 and for
7 the sewer division about \$130,000.

8 Q Okay. Let's move on.

9 ALJ RODDA: Are you going to change subjects now?

10 MR. POZEFSKY: Oh, no. I'm just getting warmed
11 up.

12 ALJ RODDA: Let's take a break anyway. Just
13 10 minutes.

14 MR. POZEFSKY: Sure.

15 (Whereupon, a recess was taken from 2:56 p.m.
16 until 3:10 p.m.)

17 ALJ RODDA: Back on the record, and I had
18 interrupted Mr. Pozefsky because I needed a break.

19 MR. POZEFSKY: So did I.

20 ALJ RODDA: But we are back.

21 MR. POZEFSKY: I needed it for myself, Your
22 Honor. But seriously, I don't have really that much, and
23 I'm sure I can articulate what I have much better.

24 I will hand out an exhibit.

25 Q (BY MR. POZEFSKY) Mr. Bourassa, you should have

1 before you what is marked as RUCO Exhibit No. 2; is that
2 correct?

3 A. Correct.

4 Q. Does that appear to be a copy of Schedule E-1,
5 which was a part of the application in this matter?

6 A. Yes.

7 Q. And if you would, could you go down to line 47 in
8 that exhibit.

9 Are you there?

10 A. Yes.

11 Q. And if you go across you will notice that that is
12 the column for accumulated deferred income taxes for the
13 water division for the test year ending December 31, 2008.
14 There are three blanks across for each column; is that
15 correct?

16 A. That's correct.

17 Q. And again, Mr. Bourassa, can you explain why
18 there are three blanks there for those columns?

19 A. When I prepared the E-1, which is based on
20 historical, I pulled the information off the general
21 ledger, or trial balance. There was no amounts recorded
22 in accumulated deferred income taxes on those trial
23 balances, so I didn't put them into the historical
24 financials.

25 I'm not surprised that they were zero. Just as

1 in the Black Mountain case when Algonquin took these
2 companies over, there weren't necessarily each year for
3 purposes of annual reports and things like that doing a
4 computation of deferred income tax like I have done,
5 because their main reporting entity is the Algonquin Power
6 or was the Algonquin Power Income Fund, now the Algonquin
7 Income Utilities, Corp.

8 So there was not any real need to compute each
9 entity's because they were again filing consolidated tax
10 returns, so they did it up at the parent.

11 Now, in the Black Mountain case in 2004, the
12 company didn't have deferred income taxes reflected on the
13 books in that case either. It was RUCO that proposed
14 deferred income taxes, and our response to that was to do
15 a calculation exactly like I have done in the instant case
16 to counter RUCO's proposed deferred income tax amount for
17 Black Mountain.

18 And in that case RUCO used the exact same
19 methodology that it's proposing in this case, with
20 different years, of course. I think Black Mountain's
21 stock purchase price was from '02, and in numerator of the
22 allocation factor and the basis of the assets of the Power
23 Income Fund, the denominator was the total of the 2004
24 assets. But it was similarly structured in that case like
25 it is in this case and was appropriately rejected in the

1 Black Mountain case.

2 So again, I think it was zero -- well, it's zero
3 on these schedules because Algonquin typically doesn't
4 perform that calculation each year for each entity; rather
5 it rolls it up. It's reported it at the parent, so it
6 rolls it up and then computes it up there, but it doesn't
7 necessarily go back and record it down at the subsidiary.

8 Q. Okay.

9 A. That is a lot of extra work, I guess.

10 Q. Let me see if I have this straight.

11 In the last decision, 69164, the company, like in
12 this case, didn't have -- didn't initially reflect an ADIT
13 liability or asset, but in response to a RUCO data request
14 the company did the calculation?

15 A. No. What happened was that the company initially
16 filed with no proposed deferred income taxes in rate base
17 and RUCO in its direct report included deferred income
18 taxes. They included a deferred income tax liability
19 based on this calculation that is similar to the one
20 proposed in this case, where they allocated the deferred
21 tax liability at the parent down to Black Mountain based
22 on a purchase price of Black Mountain, stock purchase
23 price.

24 So subsequently the company said, well, we have
25 to respond because it's RUCO that is proposing deferred

1 income tax. What is the deferred income tax for Black
2 Mountain?

3 So we pulled the actual tax reports for Black
4 Mountain for the end of the tax year and did a computation
5 that is very similar to the computation that I conducted
6 in this case, and that showed that Black Mountain had a
7 deferred tax asset of about \$162,000. And that was
8 ultimately adopted as the deferred tax amount for Black
9 Mountain in that case.

10 Q. Well, again, I don't want to split hairs, but I'm
11 looking at the order. What happened in that case was --
12 the 164,000 is the difference between what the company
13 originally reported as a liability, which was 360,000, and
14 what the parent subsequently calculated as an asset of
15 \$524,000; correct? I'm on page 5 of that decision,
16 RUCO-1, which should be before you, looking at the
17 application on line 20 through 27, if that refreshes your
18 recollection.

19 A. No. This refers to the details of the company's
20 deferred income tax computation. Once the can was opened,
21 the can of worms was open, then the parties wanted to
22 know, particularly Staff, how it was computed.

23 There was a deferred tax liability component and
24 a deferred tax asset component. The deferred tax
25 liability component, as I explained earlier today in my

1 rejoinder Schedule B-2, line 9, the difference between
2 book and tax, book was higher than tax and created a
3 deferred tax liability component of \$360,000. The AIAC
4 component created a net deferred asset of \$524,000.

5 So what you had was a net deferred tax asset of
6 \$164,000 in that case.

7 Q. Let's go a --

8 A. Those two components are the same components --
9 similar components that I am recommending for Rio Rico in
10 this case.

11 Q. And let's go to this case.

12 A. Okay.

13 Q. Schedule B-2, your water division of your direct
14 testimony --

15 A. This would be my rejoinder.

16 Q. No, your direct.

17 A. My direct? I'm sorry. I misunderstood.
18 Schedule B-2, page?

19 Q. Page 1.

20 A. Page 1. Okay. All right.

21 Q. Before I ask, I will let the Judge catch up.

22 ALJ RODDA: Thank you. I'm sorry. I found
23 B-2 --

24 MR. POZEFSKY: Page 1 of B-2.

25 ALJ RODDA: All right.

1 MR. SHAPIRO: For water, Mr. Pozefsky?

2 MR. POZEFSKY: Right.

3 ALJ RODDA: I'm almost there. I promise.

4 All right. I'm with you.

5 Q (BY MR. POZEFSKY) Okay. And there, on that
6 schedule, Mr. Bourassa, as part of your direct case, you
7 showed for the water division a deferred income tax asset
8 of \$778,203, which you talked about earlier; correct?

9 A That is for the water division, and that is the
10 allocated portion of approximately \$1.1 million of
11 deferred tax assets for Rio Rico, both divisions.

12 If you look on B-2, page 5, you will see my
13 computation as of the direct filing. On line 14 I
14 computed a net deferred tax asset of \$1,101,805. Using an
15 allocation factor of 0.7063, the asset for the water
16 division came out to the 778,203. That is also reflected
17 on B-2, page 1.

18 Q Okay. And this testimony was filed with the
19 application; correct?

20 A These schedules were filed with the application,
21 correct.

22 Q So going back to Schedule E-1, at least at that
23 time, should the amount that should be at the blank of the
24 year-end 12/31/2008, should that amount be the \$778,203?

25 A The \$778,203 is reflected on B-2, page 1.

1 I guess I don't understand your question.

2 Q Well, I'm looking at Schedule E-1.

3 A Oh, E-1.

4 Q Yes. I'm sorry. I want to take you back to E-1.

5 A Okay.

6 Q B, E. I can see how you can confuse that.

7 A Oh, let me find it. I think I have misplaced it.

8 At that point in time, given what I knew then,
9 that the \$778,203 should have been the amount that should
10 have been reflected in the annual report -- for the '08
11 annual report.

12 I would also just state for the record that
13 the -- that because of what happened in that Black
14 Mountain case in 2004, where we didn't file the
15 application with a deferred tax amount and subsequently
16 one was adopted for Black Mountain, I believed and advised
17 the company for all of its other rate cases, including
18 LPSCO, Bella Vista, Gold Canyon, and Rio Rico, that we
19 compute the deferred income taxes and propose them in each
20 one of the rate cases for fear that we would have a Black
21 Mountain situation where one of the parties, particularly
22 RUCO, would come in and try this allocation methodology
23 that it did in Black Mountain.

24 So we believed it was fair and appropriate to --
25 for each one of these cases to propose a proposed income

1 tax amount. That is why it was done.

2 Q So is your answer to my last question that that
3 \$778,203 at the time -- and I know it's changed -- should
4 that be the one that is under the column line 47 for the
5 test year ending 12/31/2008?

6 A At that point in time that would have been my
7 computation and what I would have reflected on the E-1 had
8 I done the books at that time and gone through the
9 exercise to reflect the deferred income tax there, yes.

10 Q So we have gone, just so we are clear, from the
11 \$72,000 liability in the annual report to the 778,000
12 asset in the direct out of the 314,000 asset in the
13 rebuttal?

14 A Well, during the break I discussed where the
15 \$72,000 figure came from, and we believe that is an error,
16 that, in fact, it is not -- we believe that the \$72,000
17 relates to deferred regulatory expense and that the person
18 that prepared the annual report erroneously put \$72,000 in
19 deferred income taxes. And that report was not prepared
20 by a CPA or an accountant. It was prepared by an internal
21 staff person basically.

22 So we believe that that is an error. And again,
23 when I prepared the application, I went off of what was
24 provided to me by the parent company, the general ledger
25 and the trial balances for Rio Rico. That is why they

1 were zero on the E-1.

2 Q Being that I'm not an accountant, which is so
3 obvious by the way I ask these questions, just tell me, on
4 this Schedule E-1, if, in fact, there was a figure, the
5 \$778,000 figure in the asset column -- excuse me -- in
6 column 47, where and how would it be shown in the asset
7 column or in the asset side of the balance sheet?

8 A It wouldn't have been a reduction to equity.

9 Q Well, how do these -- if you look at total assets
10 and the total liability --

11 A Excuse me. It would have been an increase in
12 equity. Excuse me.

13 Q Okay.

14 A No -- yes, it would have been an increase to
15 equity.

16 Sorry. I had to think about that for a moment,
17 do the T accounts in my head.

18 Q So it would have been offset in the liabilities
19 and the shareholders' equity section; correct?

20 A Yes. Yes.

21 Q Mr. Bourassa, do you actually audit the company's
22 records before you provide testimony?

23 A No.

24 Q You simply rely on the company's numbers?

25 A That is an overstatement.

1 I do provide a level of scrutiny when I believe
2 that something does not appear or that appears strange to
3 me, but I do not audit. I will -- if something comes to
4 my attention in preparing the application that looks odd
5 or requires me to make further inquiry, I will do so.

6 That is part of the reason for the rate case, is
7 that we have other parties that come in and also make
8 inquiry and scrutinize the books. That is part of the
9 rate case process. And we find things in expense, for
10 example, that are either nonrecurring or out of period, as
11 is in the case of at least one of the adjustments in this
12 case.

13 And so hopefully by the time we get to hearing
14 now we have fully scrutinized the books and have -- and
15 can be confident in the level of rate, plant in service,
16 accumulated depreciation, deferred income taxes, the level
17 of revenues and expenses that were going to then set
18 rates.

19 Q. So you are confident on that final ADIT figure
20 for the water division?

21 A. I'm confident in my number.

22 Q. And let's go to Schedule B-2, page 1 of the
23 wastewater division of your direct testimony.

24 MS. MITCHELL: Which schedule did you say?

25 MR. POZEFSKY: B-2.

1 THE WITNESS: Okay.

2 Q (BY MR. POZEFSKY) Mr. Bourassa, you show an ADIT
3 for the wastewater division of \$323,602 that is an asset;
4 correct?

5 A That is correct. Again, that is, if you look at
6 B-2, page 5 for the wastewater division, you will see the
7 computation of the allocated amount.

8 Again, like the B-2, page 5 of the water
9 division, we start with an overall net tax asset of
10 \$1,101,805. The allocation factor is 0.2937, leading to a
11 deferred tax asset of \$323,602, which is shown on B-2,
12 page 1.

13 Q And the deferred tax asset that the company is
14 recommending at this point is \$130,973?

15 A For the wastewater division, correct.

16 Q So subject to check, you don't disagree that the
17 difference is \$192,629?

18 A I will accept that.

19 ALJ RODDA: Remember, he is not an accountant.

20 THE WITNESS: I will accept that subject to
21 check. Thank you, Your Honor.

22 Q (BY MR. POZEFSKY) I think we beat that horse to
23 death. Let's move to revenue annualization.

24 Mr. Bourassa, the company is proposing a revenue
25 annualization adjustment of approximately \$5,000; correct?

1 A. It's approximately a \$5,000 downward adjustment
2 for both divisions. I think it's about \$4,700 for the
3 water division and \$4,500 for the wastewater division,
4 something like that.

5 Q. And this negative annualization adjustment is
6 based on what you believe is a decline in revenues
7 associated with the decline in customer count?

8 A. That is typically how my revenue annualizations
9 are based, that is we annualize, up or down, revenues to
10 the year-end level of customers. And it's an
11 annualization that I and other parties, like Staff, and
12 even RUCO, have recommended in the past and have agreed
13 to. We have agreed to the revenue annualizations in the
14 past.

15 So it's one that is typically reflected. Why?
16 Because on a going-forward basis we want to make sure that
17 the revenues reflect a year-end level of customer.

18 Q. Right.

19 A. Okay.

20 Q. And I think there was a difference on the
21 five-eighths between RUCO and the company as far as the
22 methodology, but now it appears that the difference is on
23 just the adjustment.

24 Is that fair to say?

25 A. Well, let me clarify it. I think that Mr. Coley

1 has withdrawn his recommendation for his revenue
2 annualization adjustment using the average number of
3 customers throughout the year and is proposing no revenue
4 annualization adjustment upwards or downwards.

5 So he is using the test-year level of revenues
6 without adjustment. I, on the other hand, and Staff are
7 recommending the revenue annualization to the year-end
8 level of customers in this case.

9 Q. Well, let me ask. I'm getting to a point, and
10 that is, do you -- is it your position that the decrease
11 in revenues is because of the decline in the number of
12 customers? Isn't that the basis for your adjustment?

13 A. A net downward adjustment would reflect -- would
14 imply that there is a net reduction in the number of
15 customers.

16 I would suggest that it's -- when it's about
17 \$5,000, it's not very much of a total downward adjustment
18 in the number of customers. It's because that amount is
19 so low.

20 Now, I have looked at and provided RUCO
21 information in data request 8, which shows the 2009
22 revenues and customer numbers, and while it would appear
23 that the customer levels are at least level or may have
24 gone up by 50 or 100 customer connections, that revenues
25 are down for the water division by over \$60,000 and for

1 the wastewater division by 80- or \$90,000.

2 So I would suggest that the \$5,000 revenue
3 adjustment in the instant case is probably too low. And
4 why is that? Well, there is either a reduction in the
5 water usage on the water side, and on the sewer division
6 it may be loss of customers. Because I think the sewer
7 division shows less customers than the test year.

8 So the sewer division is the loss of customers.
9 Most of their customers are flat-rate billed. That would
10 explain that. On the water division it has to be less
11 water usage.

12 ALJ RODDA: Because there are actually more
13 customers?

14 THE WITNESS: I think there are a few more
15 customers. I think when you get to the year-end it's
16 probably going up by 100 customers or so, as I recollect.

17 But the revenues are way down, which suggest to
18 me that the driver in '09 at least is that water usage is
19 way down and revenues are significantly down for '09.
20 And, of course, I have given RUCO the data and the
21 reports, so you can verify that if you would like.

22 MR. POZEFSKY: Can I have a second?

23 ALJ RODDA: Yes.

24 Q. (BY MR. POZEFSKY) Let me ask you this, and maybe
25 we can avoid a whole bunch of more questions.

1 A. Any way I can help, Mr. Pozefsky.

2 Q. Mr. Bourassa, you don't take issue with RUCO's
3 position that whatever the decline in revenues, it's not
4 because of decline in customer count, do you?

5 A. For the test year the revenue annualization would
6 suggest a decline in customers, and since it's based on
7 average use for each month, you really can't tell -- I'm
8 not sure if that would even reflect a decline in water
9 usage. It's mainly customer accounts.

10 But this is the mechanism we have had and used
11 repeatedly in Arizona. I would love to go outside of the
12 test year and grab and adjust revenues down another 60 for
13 the water side and 80 for the sewer side. It would be a
14 much higher rate increase in this case, but we don't
15 project out like that. We can't use projected numbers,
16 and somebody will say it's a violation of the historical
17 test year.

18 So what I have done in this case, as I have done
19 in many other cases, is analyze my revenues to the
20 year-end level of customers. Because it's a lower amount
21 it suggests that there was a reduction in customers, and
22 not a very large one, I guess.

23 Q. I guess we can't avoid it. Hold on a second.

24 Well, let's go to your rebuttal schedule C-2,
25 Mr. Bourassa.

1 A. C-2, page?

2 Q. Page 5.1 for water.

3 MR. SHAPIRO: I'm sorry, Mr. Pozefsky. Did you
4 say rebuttal schedule C-2, page 5.1?

5 MR. POZEFSKY: I did.

6 ALJ RODDA: Are you sure?

7 MR. SHAPIRO: Because I don't have a 5.1.

8 ALJ RODDA: Maybe it's B.

9 MR. POZEFSKY: No, it's because -- what happened,
10 Your Honor, is when I originally went through this, I
11 didn't have it either, and Mr. Coley made me a copy of it.
12 So it wasn't in the testimony, but apparently it's part of
13 the record because I have a schedule C-2 for the water
14 company. I will be happy to show everybody. Apparently
15 I'm the only one that has it.

16 MS. MITCHELL: Let me see.

17 MR. SHAPIRO: Apparently Mr. Coley made a
18 schedule for Mr. Bourassa.

19 MR. POZEFSKY: C-2 --

20 ALJ RODDA: Let's go off record.

21 (Discussion off the record.)

22 ALJ RODDA: Back on the record.

23 Q. (BY MR. POZEFSKY) Are you there, Mr. Bourassa?

24 A. Sadly, no.

25 MR. SHAPIRO: If can I approach, I can give

1 Mr. Bourassa a copy.

2 THE WITNESS: No. I'm here. Some of the
3 schedules were upside down, so I'm correcting it.

4 Q. (BY MR. POZEFSKY) Okay. Let's do it backwards.
5 If you go to the month of December of '08, it's on line
6 16, do you see the actual customers for the month of
7 December '08, which is the end of the test year, that
8 number is 5,633 for the water; correct?

9 A. For the five-eighth-inch residential, correct.

10 Q. And that is what we are talking about, the
11 five-eighth-inch residential?

12 A. Yes.

13 Q. Okay.

14 A. Yes.

15 Q. Most residential ratepayers fall into this meter
16 size; correct?

17 A. I would agree with that.

18 Q. And let's go to January '08, the top of the page
19 on line No. 2, the actual customers is 5,628; correct?

20 A. Yes.

21 Q. I'm not going to go through the actual numbers
22 per month thereafter, but as you can see from January it
23 seems to increase and decrease slightly, but at no point
24 on that first row does it ever go below the end of the
25 test year of 5633; correct?

1 A. Correct.

2 Q. And if you go down to line 16 for the months of
3 August through December, it hovers around 5769 for August,
4 5662 for September, 5621 for October, 5647 for November,
5 and 5633 for December; correct?

6 A. Correct.

7 Q. So at least during the test year, looking at
8 these actual number of customers for the water division,
9 it doesn't appear that there is a decline in customer
10 count, just a few small declines in a few months; isn't
11 that correct?

12 A. Well, the customer patterns, it appears that in
13 '08, and this is why perhaps Mr. Coley thought that the
14 customer base at Rio Rico was a seasonal customer basis
15 because we had this sort of starting number in January of
16 '08 and we rose up to the midyear to a maximum of 5930 --
17 not even that -- 5964. There was some slight variations
18 between April, May, and June, and then we declined back
19 down to about the number of customers that we had the
20 beginning after year.

21 I know in preparing the bill counts for the
22 company that the company changed its billing system, I
23 believe, in March of '08. And there was some problems
24 categorizing customers and things like that from what I
25 understand. And there was some people that didn't make it

1 on the system that were subsequently billed, which made it
2 seem like it was growing but it was making up for billings
3 that were -- for prior months.

4 But in preparing the bill count I can only go by
5 the bill date. They don't tell me this one was for
6 January even though it has a May or June bill number on
7 it. Okay? So I constructed the bill count exactly how I
8 saw it without massaging it to make it look sensible.

9 When you look at '09, while they have the billing
10 system and they know they have straightened out all of
11 misbillings and things like that -- actually it was by the
12 latter months of '08 they believe they got everything.
13 Then what you see in '09 is a nice fairly level billing
14 for the five-eighth-inch meter all throughout year. There
15 is a slight increase in the number of customers, as I
16 suggested earlier, but it's not a hump in the middle of
17 the year and then come back down.

18 Now, I would suggest to you that my revenue --
19 that doesn't -- the fact that this occurred during the
20 year does not render my revenue annualization as somehow
21 that it can't be used, because I'm annualizing to that
22 year-end number of customers. So I'm taking the
23 differences from month to month. And in the beginning of
24 the year and end of the year it's about the same number of
25 customers, and that is why my annualization in the end

1 turns out to be fairly -- you know, in total is fairly
2 small.

3 There is also some classifications of, some
4 people were called commercial customer, same rates, but
5 they were classified as commercial rather than
6 residential, and those kind of things I know happened
7 during the year.

8 Because if you look at '09, there is actually --
9 in my revenue annualization of one of the commercials I
10 set, I analyzed up to 50 customers at the end of the year.
11 When I start to look at the '09 numbers, that number drops
12 to something like 35 as the January number and then stays
13 level all year long.

14 So I admit there are some billing problems, but
15 it doesn't render that annualization. Particularly when
16 we compare it against the '09 revenues, are we setting --
17 in my estimation we are overstating the test-year revenues
18 because of this huge revenue loss in '09. But the company
19 hasn't suggested or proposed that we take the '09 revenues
20 and adjust downward any further.

21 Q. Before I hand out this exhibit, are you
22 suggesting then that these actual customer counts that are
23 in this schedule are wrong?

24 A. I'm suggesting that the months, some of the
25 months might be off a little bit. It doesn't violate --

1 because we are looking at a 12-month period, it doesn't
2 really violate the whole test year.

3 What I'm suggesting to you is that I know there
4 was a billing change. I know there were -- anytime you do
5 a billing change you have to go and reconcile the two
6 systems. You may miss customers, not realize it and have
7 to bill backward, but the billing system allows you to put
8 a bill date of the month you are billing rather than
9 backdating your bills kind of thing.

10 So I know some of that occurred.

11 ALJ RODDA: Do you think that happened in April?
12 Is that what you said earlier?

13 THE WITNESS: I think that -- I know they changed
14 systems in March. I don't know what day in March they
15 did, whether it was before or after the March billing.
16 I'm not sure of the time frame, but I know it was in
17 March.

18 ALJ RODDA: Well, April shows a big jump.

19 THE WITNESS: It does.

20 ALJ RODDA: So something is going on.

21 THE WITNESS: And I think it was -- after they
22 did their first billing on the new system, they might have
23 realized that they had some either -- they didn't bill in
24 March when they should have and therefore added it to the
25 April billings.

1 MR. SHAPIRO: Either that or a hootenanny.

2 ALJ RODDA: And they disconnected in May?

3 THE WITNESS: Now, I know this because RUCO asked
4 the question in data request 8: What did '09 look like?
5 And I actually looked at -- when the question came up
6 whether the customer base was seasonal, I asked for the
7 company's data on reconnections. Because what you would
8 see is at certain portions of the year you would see
9 reconnection dollars for the reconnection fees, and it was
10 a fairly level playing field. So I said this customer
11 base cannot be seasonal, like Far West, which I always
12 have to adjust because of the seasonality in Far West.

13 And then looking at the '09 data after getting
14 the request from RUCO, I then looked at that customer
15 pattern and said, oh, that also proves it, that it's not a
16 seasonal customer base.

17 Q. (BY MR. POZEFSKY) Let's -- just so the record is
18 clear, let me hand out RUCO-3.

19 I believe, Mr. Bourassa, that this should be a
20 copy of the data request by RUCO and data response by the
21 company which discussed the actual count for 2009.

22 Is that what it appears to be?

23 A. Yes.

24 Q. And if you would, again, just so we have this on
25 the record, go to the first page -- well, I guess it would

1 be the second page, the first page of the response, and
2 down towards the bottom about three-quarters of the way
3 down you have the five-eighths total.

4 Do you see that there, Mr. Bourassa?

5 A. Yes.

6 Q. And I don't want to go through every month, but
7 it does appear to be what you stated, pretty stable.

8 Starting in January it's at 5837; correct?

9 A. Yes.

10 Q. Which is about 250 more customers than in
11 December of '08?

12 A. Yes.

13 Q. Correct. Any explanation why it jumped up 250
14 customers?

15 A. Well, I know part of the reason for that is
16 classification of customers from commercial to
17 residential. For example -- I think I talked about this
18 earlier. If you look at my revenue annualization for the
19 five-eighth-inch commercial, which is on C-2, page 5,
20 economy of scale 5.6, I annualized revenues up by \$12,709
21 because was I was annualizing to the year-end
22 five-eighth-inch commercial count of 116. Starting in '09
23 we have 95 customers, so there is a shift of a few, I'm
24 sure, to the residential.

25 The other thing is, I think this report -- one of

1 the things you have in trying to do these bill counts, and
2 I experience this all the time, is you have what are
3 called -- you have connections, and you have what are
4 active connections and nonactive connections.

5 So the 5837 might also reflect some inactive
6 connections that were included in the counts. And we can
7 explore that. I can go back to the company and try to
8 discern that. But I know these billing systems, some of
9 them really can't distinguish between a nonactive customer
10 and an active customer.

11 Particularly when you have a customer who leaves,
12 let's say, in the second day of the month, he might be
13 counted as an active customer for the month, and then you
14 go, well, how do I account for that in a bill count,
15 because he clearly didn't get billed for 30 days; he got
16 billed for two days at most. So that could also explain
17 the differences in the numbers.

18 Q. Mr. Bourassa, looking at the schedule C-2, giving
19 that the actual customers appears to be increasing during
20 the first half of the year, remaining steady during the
21 second half of the year, how do you explain the downward
22 adjustment? Is it primarily your belief that there is a
23 decrease in consumption?

24 A. Are we referring to the RUCO-3 or the C-2?

25 Q. C-2 and RUCO-3.

1 A Well, I think I explained this earlier. I think
2 the overall downward adjustment, as reflected in the
3 company's revenue annualization, which includes C-2 5.1 up
4 to 5.8 or 9 would suggest that the customer base was
5 relatively established. Okay?

6 The '09 would suggest, while it looks like there
7 is a slight increase in the number of customers, by about
8 40 customers, there is less revenue.

9 For example, if you look at the grand total line,
10 the last column, it shows \$1,066,000 for the water
11 division, and if you look at H-1 --

12 Q Where is that?

13 A It's the last column on RUCO -- second page of
14 RUCO-3, total revenues, the grand total, which is about in
15 the first third of the page, the grand total line it shows
16 \$1,066,104. Okay?

17 ALJ RODDA: I thought -- doesn't that look like a
18 7?

19 THE WITNESS: 1,766,104. Didn't I say that?

20 MR. SHAPIRO: I don't know what he said, but I
21 agree that that is what it says.

22 THE WITNESS: 1,766,104?

23 Is everyone in agreement?

24 ALJ RODDA: I agree with that.

25 THE WITNESS: Okay. Now, if you look at H-1,

1 page 1 in the direct filing, it doesn't matter which,
2 rebuttal or rejoinder -- I'm looking at the direct filing,
3 Schedule H-1, page 1 -- the total revenues before my
4 annualization are 1,808,782. After my revenue
5 annualization of about \$4,800, which is on page 2, you
6 then go to page 3, line 5, and I'm saying that under
7 present rates that the test-year revenues was \$1,803,988
8 from metered revenue.

9 So that would be comparable to the 1,766,104 that
10 I find on RUCO-3. I mean, that is a roughly a 45- to
11 \$50,000 reduction in total revenues suggesting that my
12 revenue annualization may not go far enough.

13 Q (BY MR. POZEFSKY) And again, Mr. Bourassa, how
14 did you come up with the \$5,000 reduction if it's not
15 based on customer decline? How did you come up with that?

16 A I suggested that it was based on customer
17 decline. I said that. I suggested it was a small overall
18 customer decline.

19 Q Okay. Okay. That is fair.

20 Last area I want to talk to you about briefly is
21 rate case expense.

22 Obviously, once more RUCO and the company don't
23 agree on what is a reasonable amount of rate case expense
24 in this case; correct?

25 A Once again I think you are correct.

1 Q. Can you explain to me, Mr. Bourassa, the benefit
2 that ratepayers get out of paying for the company's rate
3 case expense?

4 A. Can you repeat that question, please?

5 Q. Sure. Can you explain to me the benefit that
6 ratepayers get for paying for the company's rate case
7 expense?

8 A. Well, I don't think that is the proper benchmark.
9 It is the Commission that dictates the process by which
10 the company can change its rates.

11 So the company has to go through the rate case in
12 order to get those rates. But there are benefits to a
13 rate case that arguably benefit ratepayers. That is to
14 say that the company's books and records are scrutinized.
15 We are here discussing DITs and people -- Staff
16 engineering has looked at the plant in detail, et cetera,
17 et cetera.

18 So there are -- so the ratepayers get the benefit
19 that they know that the company has gone through and had
20 its books and records examined to make sure that they
21 aren't including in rates things that it shouldn't be
22 including in rates.

23 But putting that aside, again, the company can't
24 change its rates on its own. It's the Commission and the
25 regulatory framework in Arizona that dictates that the

1 company has to go in and file a rate case and go
2 through -- file testimony, go through a hearing, file
3 briefs, et cetera, and then finally appear before the
4 Commission Corporation in order get new rates.

5 Q. Do you think that it would be fair for
6 shareholders to share some of the costs of what you
7 believe is a reasonable amount of rate case expense?

8 A. I think that shareholders always do, because in
9 my experience, that companies incur rate case expense in
10 excess of the rate case that they either request or in
11 some cases are granted. I will give you an example.

12 Gold Canyon, the company spent hundreds of
13 thousands of dollars and in the rehearing decision it was
14 granted \$70,000. I am not suggesting that that was fair,
15 but that was the end result. But in my estimation the
16 company spent way in excess of their requested rate case
17 expense.

18 Q. What is your estimation based on?

19 A. It's based upon my professional experience along
20 with that of the attorneys in the case and in consultation
21 with the client itself, saying this is what we believe
22 that you are going to incur in terms of cost for this rate
23 case. Here is what we believe that should be requested.

24 Now, in an ideal world we would get it exactly
25 right, but typically we underestimate rate case expense

1 and don't request enough. But by the end of the case we
2 don't believe that opening up that can of worms is a
3 good -- is a good thing for the company to typically do.
4 Although in some cases it exceeds it so far that we have
5 to request more rate case expense because it's so far in
6 excess of our original estimate that it has to be and it's
7 unfair for the company for it to forego recovery.

8 Q Do you think, Mr. Bourassa, that it is fair for
9 the Commission to consider the current state of the
10 economy when considering what would be a reasonable amount
11 of rate case expense?

12 MR. SHAPIRO: Can you repeat that question?

13 MR. POZEFSKY: If the reporter wants to read it
14 back.

15 (Requested portion of the record read.)

16 MR. SHAPIRO: Are you asking him for a legal
17 question, Mr. Pozefsky, or just his opinion as a
18 ratemaking expert?

19 MR. POZEFSKY: Just his opinion as a ratemaking
20 expert.

21 MR. SHAPIRO: Thank you. Then no objection.

22 THE WITNESS: No.

23 Q (BY MR. POZEFSKY) Why not?

24 A Because in a good economy companies aren't
25 granted greater rate case expense because the economy is

1 good. Why should -- why should companies then suffer the
2 reverse of that?

3 If this Commission regularly granted premiums on
4 rate case expense or granted all of the company's rate
5 case expense because the economy was good, then that would
6 suggest that, you know, it would be appropriate to do when
7 the economy is bad. But in my opinion that is subjective
8 and should not be part of this process.

9 Q. Considering all the other expenses that you have
10 reviewed, Mr. Bourassa, what are some of the expenses that
11 the company has cut back on in this case to help
12 ameliorate the impact of the rate increase for its water
13 division?

14 A. Well, arguably the company has eliminated a
15 number of issues in the case by agreeing to other parties'
16 proposals.

17 For example, I generally disagree with
18 normalization adjustments based on three-year averages.
19 The company did accept RUCO's proposed bad debt expense
20 adjustment, which by the way took a significant amount of
21 operating expenses out of the test-year expenses, again in
22 the order of \$30,000 for the wastewater division.

23 The company also has been timely in its responses
24 to data requests, and the company has tried to work with
25 the parties as best as it can in the discovery process in

1 working out issues.

2 So in that respect, I don't think that my cost
3 for this case will be nearly as high as the Gold Canyon
4 case. Why? Because there were a lot more issues in the
5 Gold Canyon case, or for that matter the recent LPSCO
6 case. There were whole a lot more issues at hand that the
7 company had to fight in order to get fair treatment.

8 So I don't have anything to add to that, I guess.

9 Q Mr. Bourassa, do you think RUCO's recommendation
10 on rate case expense would provide a reasonable amount of
11 rate case expense for the company?

12 MR. SHAPIRO: I'm going object. I don't think
13 that RUCO has a final recommendation. I thought they were
14 pretty clear in their testimony about responding to the
15 company by saying we don't have a final recommendation.

16 So I would like to know what Mr. Pozefsky is
17 asking. Is it the current number that RUCO is using or
18 the number that we don't know yet?

19 MR. POZEFSKY: Well, it's the 25 percent less
20 than what the company is recommending.

21 MR. SHAPIRO: And is RUCO now stipulating that
22 it doesn't intend to change its recommendation?

23 MR. POZEFSKY: No, it's the current
24 recommendation, but it's -- as we said in our testimony,
25 until we know what all the expenses are, until we have a

1 final estimate or a final amount from the company, it's
2 hard for us to state or make a position.

3 That is the problem that we have had in all of
4 these cases. We have to come up with a number and we
5 don't know what the final number is the company is
6 recommending.

7 ALJ RODDA: Well, isn't there a proposal in
8 rejoinder that they are using for rate case expense? Is
9 it going to change from that?

10 MR. SHAPIRO: At this point in time the
11 company -- Mr. Bourassa's testimony is very clear. He
12 evaluated the current state of rate case expense. He
13 believed that his initial estimate is well within his --
14 the current status. The company has given no indication
15 to either Staff, RUCO, or the other party that it intends
16 to change its rate case expense.

17 Obviously if we are here three weeks from now
18 with a continuing hearing date, we will have to evaluate
19 that position, but at this time we don't intend to change
20 our rate case expense.

21 Mr. Pozefsky is right. It's a difficult issue,
22 but we have made available all the backup support to rate
23 case expense throughout. They can come and update it
24 again if they want. But it makes it difficult for the
25 company, when it doesn't know what the RUCO's final number

1 is and then you ask questions and say, "Is our position
2 reasonable?"

3 ALJ RODDA: So your response is 75 percent of
4 whatever their last number was?

5 MR. POZEFSKY: Well --

6 ALJ RODDA: Just so I know.

7 MR. POZEFSKY: No, that is fair.

8 And again, we didn't get the rejoinder testimony
9 until yesterday to know -- and even in the hands of the
10 rejoinder testimony, again, we only have the final
11 schedules.

12 But given what I'm hearing Mr. Shapiro to say,
13 that this appears to be the final amount, at least what
14 they initially proposed. We may have to -- we may have
15 something probably tomorrow. We weren't trying to be
16 cryptic when we were saying we don't know exactly what it
17 was.

18 I know Mr. Coley wanted to go through any
19 additional invoices making his recommendation. But again,
20 now that we know this, maybe a final recommendation, I
21 think we are in a position that we could be more
22 definitive.

23 Q. (BY MR. POZEFSKY) Let me withdraw the question
24 because I think it's a fair objection since we haven't
25 stated a specific amount.

1 MR. POZEFSKY: Let me see if I have any more
2 questions, Your Honor.

3 We are not doing cost of capital, or not today?

4 ALJ RODDA: I think we are with this witness.

5 MR. SHAPIRO: That is my understanding.

6 ALJ RODDA: Because this was the only time that
7 he was technically to be on the stand. So I understand
8 that that probably means he will be back tomorrow, if you
9 have many more questions, because we haven't gotten to
10 Staff yet.

11 MR. POZEFSKY: Right. That is it for rate case
12 expense, but I do have questions on cost of capital.

13 ALJ RODDA: Okay.

14 MR. POZEFSKY: It's 4:20.

15 ALJ RODDA: Okay.

16 Q. (BY MR. POZEFSKY) Okay. All right.

17 Mr. Bourassa, let's go on to cost of capital. Let's talk
18 about capital structure.

19 Mr. Bourassa, the company is recommending a
20 capital structure, which is its actual capital structure,
21 of 100 percent equity and zero percent debt; isn't that
22 true?

23 A. Yes.

24 Q. You would agree with me, wouldn't you,
25 Mr. Bourassa, that it is the company and not the

1 Commission who chose that capital structure?

2 A. Well, notwithstanding the fact that the
3 Commission has to approve the incurrence of the long-term
4 debt for utilities, it is management that makes
5 determinations of the appropriate capital structure for
6 the company.

7 Q. So your answer is yes?

8 A. Yes.

9 Q. And as a general proposition, Mr. Bourassa,
10 wouldn't you agree that the cost of debt is typically
11 cheaper than the cost of equity?

12 A. Not according to Mr. Rigsby, but, yes, cost of
13 debt is lower than the cost of equity.

14 Q. And isn't it also true, Mr. Bourassa, that if
15 there is no debt in the company's capital structure, then
16 there is no interest expense related to that debt;
17 correct?

18 A. If the company does not have debt on its books,
19 it will not incur interest expense. It will also not
20 be -- well, I'll just leave it there.

21 Q. And as far as income taxes are concerned,
22 Mr. Bourassa, isn't interest expense a deduction to the
23 company's income tax?

24 A. It's a deduction to the taxable income of the
25 company.

1 Q And all other things being equal, Mr. Bourassa,
2 isn't it true that the company with a lower income tax
3 expense would have a lower revenue requirement than let's
4 say a company with a greater income tax expense?

5 A Well, in my view all things wouldn't be equal,
6 and that is that when you start injecting debt into a
7 capital structure, you increase the equity risk.

8 Remember, equity has a residual claim on all
9 earnings, so unless you -- in my opinion, that the risk of
10 the equity holder goes up with the debt when you put debt
11 in the capital structure, which ultimately may not change
12 the revenue requirement.

13 Now if you want to simplify things, all things
14 being equal, well, that is an oversimplification because
15 equity risk will go up when you put debt in the capital
16 structure.

17 So I disagree with the premise that all things
18 will be equal.

19 Q But would you agree, Mr. Bourassa, that there are
20 definite tax advantages to debt financing that you would
21 not have with equity financing?

22 A There are tax advantages and tax deductions, but
23 then you have to weigh that, as management of all
24 companies do, as a risk to the equity holder and the
25 impact of debt on the financial condition of the company,

1 the stability of the cash flows, the ability to generate
2 enough earnings that can be used to reinvest in plant and
3 equipment.

4 Remember, you have to make your debt payments;
5 you don't have to necessarily make your dividend payments,
6 because the debt payments have to be paid otherwise you go
7 into default. The shareholder doesn't have to receive his
8 dividend payments. Earnings aren't there to pay the
9 dividend and cash flows, then the company can suspend
10 dividends.

11 This is why equity holders are at a greater risk
12 than a bank or a lender is by holding debt because they
13 get paid first.

14 Q. So are there no advantages to the ratepayers to
15 have debt financing -- or to debt financing? Excuse me.

16 A. Can you restate the question? What do you mean
17 by there are no advantages?

18 Q. Wouldn't you agree that a lower weighted average
19 cost of capital, because of debt in the capital structure,
20 would result in a lower operating income, which in turn
21 would result in lower rates?

22 A. Well, that is one possibility, but if you are --
23 if you properly reflect the increase to the risk to the
24 equity holder, it doesn't necessarily mean a total overall
25 lower WACC. In other words, if you take a company with

1 30 percent debt and you say, here is the WACC at 9 percent
2 equity and 6 percent debt, and you put 60 percent or
3 50 percent debt in that company, your equity cost might
4 realistically -- I'm not suggesting that what is done in
5 this jurisdiction is to treat them the same and get the
6 same equity cost -- but let's say you truly reflect the
7 increase in equity, what might go to 10.5 or 11 percent,
8 you may end up with the same WACC.

9 Q Then how do you account for the fact that
10 virtually all the companies in your proxy have close to a
11 balanced amount of debt and equity in their capital
12 structure?

13 A Define balanced.

14 Q How about 50/50 or close to it.

15 A That -- it is true that the publicly-traded
16 companies have about 50 percent debt and 50 percent equity
17 in their capital structure. These are very large
18 utilities, very well diversified utilities, and I would
19 not suggest to anyone that a small company like Rio Rico
20 should have 50 percent debt in its capital structure.

21 So when we talk about balanced, you really have
22 to look at the size of the company. Because I believe
23 that debt has a greater impact on risk, financial risk to
24 a company, than to a larger company, a diversified
25 company.

1 Q. But isn't it true that these large companies that
2 you are talking about are comprised of smaller companies
3 like Rio Rico?

4 A. When we look at the publicly-traded, we are
5 looking at the parent. We are not looking at the
6 individual utilities in them.

7 Okay. Golden State Water is the largest utility
8 in American States and comprises the bulk of the size of
9 American States. It owns Chaparral, which is very small
10 in comparison, and they own a small energy or electric
11 utility, Big Bear, which again is very small relative to
12 the Golden State Water, which is their biggest asset.

13 Q. But they all essentially face the same risks,
14 don't they?

15 A. No. I would suggest that Aqua America, who does
16 business in 12 different -- 14 different jurisdictions or
17 states is less subject to a bad decision by one regulatory
18 body; therefore, whereas, say for example American States,
19 which primarily is based in California, may be subject to
20 more risk, regulatory risk than Aqua America.

21 So I wouldn't say that all risk is the same.
22 There are -- and that is reflected in the betas of the
23 publicly-traded companies. There are different betas
24 reflecting different market risk.

25 Q. All of these companies we are talking about, they

1 are all regulated, aren't they?

2 A. On average about 89 to 90 percent of their
3 business activities are regulated, correct.

4 Q. And they all face some degree of regulatory risk;
5 correct?

6 A. They all face regulatory risk, yes.

7 Are they the same levels, I would argue, no.

8 Q. And in your opinion, Mr. Bourassa, isn't it true
9 from an investigator standpoint Arizona's regulatory
10 environment is a disincentive to potential investors?

11 MR. SHAPIRO: Can I have that question read back,
12 please.

13 MR. POZEFSKY: Sure.

14 Q. (BY MR. POZEFSKY) It's your opinion, isn't it,
15 Mr. Bourassa, that from an investigator standpoint
16 Arizona's regulatory investment is a disincentive to
17 potential investors?

18 Again, since I'm up front, I will direct you to
19 where it is. Page 14 of your rebuttal testimony, the
20 first Q & A.

21 MR. SHAPIRO: Is that cost of capital rebuttal,
22 Mr. Pozefsky?

23 MR. POZEFSKY: I think it is.

24 MR. SHAPIRO: That should be A-7.

25 ALJ RODDA: And you said page 14?

1 MR. POZEFSKY: I did.

2 THE WITNESS: I would suggest that Arizona's
3 regulatory environment is less business friendly than
4 other jurisdictions, and that is just not my opinion; that
5 is the opinion of Standard & Poor's, which I believe I
6 included an excerpt of their most recent analysis of --
7 maybe I didn't. I don't think I included it.

8 But I do reference it in my testimony, that S&P
9 has found Arizona to be not a credit-friendly or
10 credit-favorable environment to do business.

11 Q. (BY MR. POZEFSKY) Let me be more succinct.

12 You believe then from an investor standpoint the
13 Arizona regulatory environment is less attractive than
14 that faced by the regulatory environments of the sample
15 utilities; correct.

16 Perhaps I was little unclear. Let me artfully
17 restate it.

18 From an investor standpoint, isn't it true -- I'm
19 looking at the first Q & A -- the Arizona regulatory
20 environment, in your opinion, Mr. Bourassa, is less
21 attractive to investors than the regulatory environments
22 of the sample utilities that you used in your proxy?

23 Is that a fair statement?

24 A. I think the correct description of my testimony
25 here was that there are other regulatory environments

1 which would have less regulatory risk to Rio Rico than the
2 regulatory environment in Arizona where there are
3 mechanisms, like surcharges, revenue-recovery surcharges,
4 expense surcharges are allowed, where they are not in
5 Arizona. Those sorts of things.

6 So what I'm suggesting is that there is a
7 difference in the risk of doing business in Arizona than
8 there is in other jurisdictions in which the
9 publicly-traded companies operate.

10 Q. And you represent the user company, Mr. Bourassa?

11 A. I represent my own views.

12 MR. SHAPIRO: I think Mr. Pozefsky asked him what
13 his view was, not the company's view.

14 Q. (BY MR. POZEFSKY) Mr. Bourassa -- I will
15 withdraw the question -- then why in the world would
16 Algonquin Power Income Fund invest in water and wastewater
17 utilities here in Arizona?

18 A. I can't speak for the company, but I know that
19 from my perspective that I don't believe that the
20 companies generally view Arizona -- the regulatory
21 framework in Arizona using historical test years as being
22 necessarily bad or unfair.

23 In my opinion, when the differences in risk
24 between this regulatory environment and others is not
25 recognized in the rate of return, that is where I believe

1 that the environment here is less friendly and less
2 favorable to companies doing business.

3 Q You do not believe, Mr. Bourassa, that accounting
4 orders are an attractive asset to regulation in Arizona?

5 A I think if you read my testimony, I don't know of
6 any other jurisdiction that doesn't have some form of an
7 accounting order which would make, as Staff witness tried
8 to argue, Arizona a more attractive environment.

9 Q Well, let me ask you, Mr. Bourassa, why don't you
10 read your testimony. Let's turn to page 16 of your
11 rebuttal. Why don't you read the question at line 6 and
12 then the one-word answer at line 8.

13 MR. SHAPIRO: I'm sorry. What page are you on?

14 MR. POZEFSKY: Sure. Page 16.

15 THE WITNESS: Let me read you the question and
16 answer.

17 "QUESTION: Are accounting orders an attractive
18 attribute of regulation in Arizona?

19 "ANSWER: No." And I explained, "I'm not aware
20 that regulatory mechanisms similar to accounting orders
21 are not available to any of the sample water utilities in
22 the regulatory jurisdictions in which they operate.
23 Therefore, accounting orders do not make Arizona
24 attractive to investors relative to other investments.
25 Besides, the nature of the accounting order in Arizona

1 limits their attractiveness."

2 And I go on to explain that accounting orders
3 allow you to defer expense, but there is no assurance of
4 future recovery.

5 I'll give you an example, the LPSCO case. The
6 company was granted an accounting order to defer certain
7 legal expenses and other expenses related to a potential
8 contamination of their wells. While the company was
9 granted that order, it wasn't -- it was Staff and RUCO
10 that opposed recovery.

11 So what I'm suggesting is that there are other --
12 in California, you can get what is called an advice
13 letter. If you have a major system improvement to put in
14 that wasn't contemplated in your rate case, most recent
15 rate case, you can essentially apply for an advice letter
16 in a proceeding to treat that particular investment on its
17 own track without having to go through a whole rate case.

18 And in many other states, 12, for example, that
19 allow for a distribution and improvement surcharge where
20 the company can implement a surcharge based upon plant
21 investment and recover both the rate of return and the
22 depreciation in between rate cases.

23 Now -- so what I'm suggesting here isn't
24 necessarily an attractive attribute; it's an attribute of
25 this jurisdiction, but it doesn't distinguish itself from

1 some of the other jurisdictions which are described in my
2 testimony.

3 Q. (BY MR. POZEFSKY) Mr. Bourassa, have you of
4 recommended the Commission approve an accounting order for
5 any utility?

6 A. Yes.

7 Q. Do you believe the utility benefited from it,
8 from your recommendation?

9 A. Well --

10 Q. Well, let me step back.

11 Was the accounting order approved in any of the
12 situations that you recommended it?

13 A. Yes.

14 Q. Do you believe that the utility benefited from
15 the accounting order?

16 A. Well, let's take the example of Litchfield Park
17 Service Company. I was involved in that application for
18 the accounting order. It was granted. But, again, I
19 didn't see that it was any particular benefit to the
20 company. It allowed them to segregate the costs for
21 potential future recovery, which I would expect.

22 But did the company have or did Algonquin have
23 that ability to apply for similar accounting orders in
24 other jurisdictions, the answer is yes. These things are
25 not unique to Arizona.

1 So, again, what I'm suggesting is that it doesn't
2 make it necessarily an attractive attribute compared to
3 other jurisdictions that have perhaps more comprehensive,
4 let me say, accounting orders that might allow you to not
5 have to go through a rate case in order to get rate
6 relief.

7 Q. So you don't believe that an accounting order
8 provides a utility with any type of regulatory stability?

9 A. I guess I don't know what you mean by regulatory
10 stability.

11 Q. Let me put it to you another way.

12 Have you ever seen a situation where a utility
13 recorded cost pursuant to an accounting order and then
14 when the utility sought recovery from the Commission for
15 those costs, that the Commission actually denied the
16 utility the recovery of those costs?

17 A. I can't think of one off the top of my head, but
18 I -- I would be more than happy to get that information to
19 you.

20 Q. Wouldn't you agree with me that if, in fact,
21 there is a situation, that in any event it's a rare
22 exception and not the rule?

23 MR. SHAPIRO: I'm going to object. The question
24 lacks foundation, and whether or not the Commission has
25 ever approved an accounting order and then not allowed

1 treatment later isn't really relevant to this proceeding.

2 I think Mr. Pozefsky, as he likes to say, has
3 beaten a dead horse.

4 ALJ RODDA: Well, I think there is some
5 foundation. If he can't recall if it's happened, I don't
6 know how he can answer the question.

7 MR. POZEFSKY: Well, I'm not asking him
8 specifically to tell me the -- well, I think the answer
9 justifies a point, that if, in fact, it has happened, it's
10 rare. Whether there has been a denial of an accounting
11 order. I'm just asking him if in general it's a rarity.

12 ALJ RODDA: I don't know.

13 Can you think of one where they denied it?

14 THE WITNESS: Not off the top of my head.

15 ALJ RODDA: So he can't --

16 THE WITNESS: It could be either way.

17 Let me add that typically --

18 ALJ RODDA: It's all in perspective.

19 MR. POZEFSKY: Thank you. I made the point.

20 THE WITNESS: It's more rare that the company is
21 allowed to recover the cost of the money of the deferred
22 cost of this money that it has incurred and paid for and
23 then subsequently recovered.

24 I don't recall any accounting order that was
25 approved that allowed for water and wastewater utilities,

1 that allowed the recovery of the carrying cost of that
2 money until its subsequent recovery, which might be years
3 down the road.

4 In the Litchfield Park case, for example, Staff
5 is requesting or proposing that the recovery at this time
6 be denied and pushed off until a future rate case. But
7 there has been no suggestion that the company be allowed
8 to carry or recover the carrying cost of those dollars
9 until that eventual recovery, which may be three or
10 four years from now.

11 Q (BY MR. POZEFSKY) But there is a good possibly
12 that they will get recovery; right?

13 A I don't know.

14 Q And adjustor mechanism, Mr. Bourassa, is it your
15 testimony that adjustor mechanisms are not beneficial here
16 because they are seldom allowed here and routine in other
17 states?

18 A I'm suggesting that water and wastewater
19 surcharge mechanisms for power, purchased water are rarely
20 approved for water and wastewater utilities, and those
21 kinds of mechanisms provide for the company -- revenue
22 stability to the company to capture increases in costs
23 beyond their control.

24 Q So when you are addressing an adjustor mechanism,
25 you are talking as they relate to water and wastewater,

1 not to electric and all the other companies?

2 A. Yes, which makes you wonder why, if these kinds
3 of mechanisms, which I know are provided to some of the
4 electric and gas utilities, why they are not allowed for
5 water and wastewater, I can't tell you.

6 What I'm suggesting, though, is that there is a
7 difference, particularly in the water and wastewater
8 regulated industry. When we are talking about differences
9 in risk between jurisdictions, it is a fact that you can't
10 ignore when you compare one jurisdiction to another.

11 Q. Mr. Bourassa, would you agree with me that the
12 level of debt that a company has can affect its cost of
13 equity capital?

14 A. Yes. And that is why I have proposed in this
15 case a 100 basis point reduction in my cost of equity
16 estimate to reflect the difference in financial risk
17 between the publicly-traded companies and Rio Rico.

18 Q. Debt financing adds to the financial risk of the
19 company; correct?

20 A. Adds more debt?

21 Q. More debt.

22 A. More debt increases the financial risk to the
23 company.

24 Q. And you did a CAPM analysis in this case;
25 correct?

1 A. I did.

2 Q. That was part your capital -- cost of capital
3 analysis?

4 A. Yes.

5 Q. And in particular a cost of equity analysis?

6 A. Yes.

7 Q. And one of the components of CAPM is beta; isn't
8 that correct?

9 A. Yes.

10 Q. And beta is the measure of financial risk; isn't
11 that correct?

12 A. No, beta is the measure of market risk.

13 What we do with the CAPM is -- or to address the
14 differences in financial risk, we do what is called the
15 Hamada method, which is to -- basically to deleverage the
16 beta of the sample utilities companies and releverage it
17 to the beta based on the capital structure of the subject
18 company and then use that in a CAPM to determine a cost of
19 equity for the subject company.

20 Now, the problems with the CAPM, as I point out
21 in my testimony, is that beta, we use the average beta for
22 the water utility companies, but I believe that the beta
23 in empirical financial data demonstrates that betas for
24 smaller utilities are higher -- or smaller companies are
25 higher than that for larger companies.

1 So we assume the beta of these large utilities as
2 the beta for Rio Rico. Again, Rio Rico doesn't have a
3 beta. We don't have the market for Rio Rico stock. It's
4 not publicly traded. But we know that the financial
5 literature and data indicate it should be higher, but we
6 just accept that.

7 Okay. Now, the other thing is the CAPM fails to
8 explain all the difference, all the risk -- equity risk
9 that again the financial data demonstrates that companies
10 with betas less than 1, the CAPM, understates the cost of
11 equity, and conversely for companies with betas of greater
12 than 1, the CAPM is overstated.

13 So the beta is less than 1 for the
14 publicly-traded companies. We know that the CAPM fails to
15 explain all the risks with equity. So I would -- that is
16 why I have done a small company risk premium in here
17 because we have these problems with beta and the failure
18 to capture all the risk.

19 Q. Mr. Bourassa, all things being equal, shouldn't a
20 company that has no debt have a lower beta than a company
21 with 50 percent debt and 50 percent equity?

22 A. Not necessarily.

23 Q. Shouldn't a company that has 100 or -- excuse me
24 a second here.

25 MR. POZEFSKY: I'm almost done, Your Honor.

1 Q. (BY MR. POZEFSKY) Again, Mr. Bourassa, all
2 things being equal, shouldn't a company that has no debt
3 be awarded a lower cost of equity than a company that has,
4 let's say, 50 percent debt?

5 A. Again, not necessarily. You are assuming that
6 you are comparing these companies and they're comparable
7 companies, that they have the same -- they have comparable
8 risks.

9 Q. Let's go to your rebuttal Schedule D.

10 ALJ RODDA: And you swear to me, Dan, that you
11 are close to the end? We are just -- it's almost 5:00;
12 that is why I ask.

13 MR. POZEFSKY: Maybe five minutes more, if that.

14 ALJ RODDA: Okay. If you were going to say --

15 MR. POZEFSKY: I know I'm -- what did I say, half
16 an hour? I think it's been an hour or two hours when you
17 asked me at the prehearing conference.

18 MR. SHAPIRO: I don't remember that.

19 ALJ RODDA: Yes, I don't remember asking anyone.

20 MR. POZEFSKY: Well, then it may have been a
21 different day.

22 MR. SHAPIRO: If we could finish out RUCO today,
23 that would be great.

24 ALJ RODDA: I'm sorry. Now I have --

25 Q. (BY MR. POZEFSKY) D-4.3 in your rebuttal.

1 Are you there, Mr. Bourassa?

2 A. I am.

3 Q. And this schedule is an updated proxy that the
4 company is using for cost of equity analysis from your
5 direct testimony?

6 A. Yes.

7 Q. So the average cap structure of your proxy using
8 book value was 46.9 percent and 53.1 percent; correct?

9 A. 46.9 percent long-term debt and 53.1 percent
10 common equity based on book value.

11 Q. And that hasn't changed in the rejoinder
12 testimony?

13 A. I have -- this is my last update, and I don't
14 believe that these numbers have changed or changed
15 depreciatively.

16 Q. And the market value, the average was
17 31.9 percent long-term debt and 61.8 percent common
18 equity; correct?

19 A. 39.1 and 68.1, correct.

20 Q. And none of these companies -- American States,
21 Aqua America, California water, Connecticut Water,
22 Middlesex, SJW Corporation -- had a 100 percent equity
23 capital structure; correct?

24 A. No, but I would also argue that these companies
25 are not -- while we use them as a proxy and as a starting

1 point in our analysis, I would argue that they are not
2 comparable as companies.

3 Q Why either bother using them?

4 A Because we have to have a -- they provide a
5 useful starting point.

6 If you follow my testimony, I have explained why
7 I believe that the large publicly-trade companies are not
8 comparable to the publicly-traded, but we have to have a
9 starting point.

10 Q And looking at all the different capital
11 structures that we have here for all these proxies, you
12 would agree, would you not, that RUCO's hypothetical
13 capital structure of 60 percent equity and 40 percent debt
14 is not that far out of line of these proxy companies'
15 capital structures?

16 A Yes, the 40 percent debt, 60 percent equity are
17 not out of the -- are similar to the publicly-traded
18 companies, but it is not the capital structure of Rio Rico
19 Utilities.

20 Q Well, in fact, RUCO's recommendation capital
21 structurewise is much closer than every one of those proxy
22 companies that you used than what the company's actual
23 capital structure and the capital structure you are
24 actually recommending is; correct?

25 A Yes, and that is why I have done what this

1 Commission has historically done, is to adjust for
2 financial risk by making a direct financial risk
3 adjustment to the cost of equity.

4 Q The Commission didn't do that in the Gold Canyon
5 case ultimately, did it?

6 A Well, the Gold Canyon case is under appeal, so I
7 really couldn't -- I would suggest to you that the Gold
8 Canyon is an outlier at this point.

9 Q Should the Commission consider its decision in
10 Gold Canyon?

11 MR. SHAPIRO: Maybe Mr. Pozefsky can refer where
12 in the Gold Canyon decision he believes he's finding
13 support for his questions. I don't think you can just
14 throw out a decision without some specificity.

15 MR. POZEFSKY: Your Honor, I don't have the
16 decision here, but if there is a disagreement with my
17 analysis on the Gold Canyon opinion, Mr. Bourassa is a
18 rate analyst who knows, as he has already testified, as to
19 what that opinion said ultimately. It's not an opinion;
20 it's a decision.

21 ALJ RODDA: Right, and I happen to not be
22 familiar with it, so I have no idea what you all are
23 talking about. So, I mean, it's hard for me to judge the
24 question or even understand the question.

25 MR. POZEFSKY: Well, maybe I will lay some

1 foundation. How is that?

2 Q. (BY MR. POZEFSKY) You are familiar with the Gold
3 Canyon case; is that correct, Mr. Bourassa?

4 A. Yes.

5 Q. And what is your understanding of that case, the
6 Commission's decision in this case, on remand with regard
7 to the proposed capital structure that the company in that
8 case made?

9 MR. SHAPIRO: Again, I think we have to make sure
10 we have a clear record here. There is more than one
11 decision. There was no remand. It was a rehearing, and
12 there are multiple decisions after the rehearing.

13 MR. POZEFSKY: The final rehearing decision.

14 ALJ RODDA: Okay. Just so I understand, there
15 was several rehearings. We have a final rehearing
16 decision from the Commission, and that is now on appeal.

17 MR. SHAPIRO: Close, Judge Rodda. There was one
18 rehearing requested from RUCO. It was granted. There was
19 a trial. There was a rehearing decision issued, and then
20 there was a subsequent additional rehearing decision
21 issued in an effort to clarify one aspect of the prior
22 rehearing decision.

23 I think Ms. Mitchell would agree.

24 MR. POZEFSKY: I would agree with that, but my
25 only comment is that the subsequent one had to do more

1 with the computation of numbers, as I understand it, and
2 not so much the Commission's decision on what was the
3 appropriate capital structure to be used.

4 MR. SHAPIRO: And, Judge Rodda, this is the
5 reason we objected. We are talking about two different
6 decisions now. We have neither of them in front of us.
7 All we have is Mr. Pozefsky's paraphrasing of what he
8 believes the Commission said. It makes it impossible for
9 the witness to answer the questions under these
10 circumstances.

11 ALJ RODDA: Okay. Well --

12 MR. POZEFSKY: Well, maybe I can make it real
13 clear. I can just rephrase the question. Because it
14 could result in me having to dig out that decision and
15 asking a million more questions, so maybe I think I know a
16 way to ask the question.

17 ALJ RODDA: Well, we will let you do that, see if
18 you can rephrase it. If not, we will take a break and you
19 can get the decision if you want to pursue it.

20 Now that you have refreshed my memory on the
21 case, I read it in the testimony, and I found the
22 decisions and I printed them out.

23 MR. SHAPIRO: And I have the copies, if we need
24 them, as an exhibit.

25 ALJ RODDA: And I haven't read them yet, but I

1 was very confused by it; why are there so many decisions?

2 MS. MITCHELL: I think it might be helpful,
3 though, if Mr. Shapiro has copies. I was going to semi
4 join into the quasi objection that I think it's more
5 helpful for a witness, and probably for you, Your Honor,
6 if you had the decisions because there are some specific
7 findings and orders with respect to hypothetical capital
8 structure and, you know, cost of equity. And if that is
9 the line that Mr. Pozefsky is going down, I just think it
10 may be more helpful and save Mr. Shapiro from objecting
11 too many times.

12 ALJ RODDA: I think if we are going to get into
13 what happened in Gold Canyon, we will need to see that and
14 do it tomorrow.

15 If you have another -- if you want to go down
16 another line similar but not that specific line, I think
17 you can finish up today; that is fine too. But it might
18 be helpful to start in the morning because usually at
19 5:00, my experience has been, that everyone is tired
20 anyway.

21 MR. POZEFSKY: Yeah, and I don't have much more,
22 and it would probably be better. I could wrap it up even
23 with that decision in less than 20 minutes tomorrow, so
24 rather than fumble through the rest of this --

25 ALJ RODDA: It isn't like the witness isn't

1 coming back. So let's stop here for the evening, and I
2 think because we have a lot to do tomorrow -- I think I
3 initially said we would start at 9:00, but I need to stick
4 with that 9:00 start time.

5 So we will be back on the air, if anyone is
6 listening, at 9:00 a.m. tomorrow. That is it for today.

7 (The hearing adjourned at 5:02 p.m.)

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1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA) ss.

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7 I, KATE E. BAUMGARTH, RPR, Certified Reporter
8 No. 50582, for the State of Arizona, do hereby certify
9 that the foregoing printed pages constitute a full, and
10 accurate transcript of the proceedings had in the
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12 ability.

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14 WITNESS my hand this 22nd day of March, 2010.

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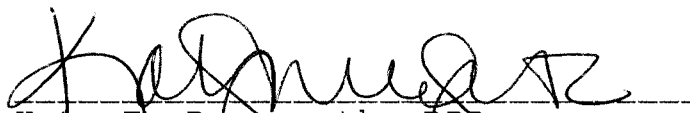
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Kate E. Baumgarth, RPR
Certified Reporter, No. 50582